IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.12.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.29469 of 2002

The State of Tami Nadu
Represented by
The Deputy Commissioner (CT),
Tirunelveli Division, Tirunelveli ... Petitioner

Vs.

1.Tvl.The Sundarson Process,
8-4-132, Mundaga Nadar Street,
Sivakasi.

2.The Secretary,
The Tamil Nadu Sales Tax Appellate Tribunal,
(Additional Bench), Madurai. ... Respondent

Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorari to call for the records relating to the order of the Sales Tax Appellate Tribunal (Additional Bench), Madurai, made in M.T.S.A.No.536/99 dated 03.04.2000 and quash the same.

For Petitioner : Mr.Mohamed Shaffiq
Special Government Pleader

For 1st Respondent : Mr.P.Radhakrishnan

For 2nd Respondent : Tribunal

ORDER

(Order of the Court was made by DR.VINEET KOTHARI,J.)

The State of Tamil Nadu has preferred this writ petition against the order of the Tamil Nadu Sales Tax Appellate Tribunal dated 03.04.2000, by which, the learned Tribunal upheld the remand made by the First Appellate Authority on the issue of tax liability of printing materials supplied by the Assessee, which was claimed to be works contract and not sale by the Assessee.

2.The learned counsel for the Assessee Mr.P.Radhakrishnan, submitted before us that after the remand, fresh assessment orders have not been passed so far.

3.Both the learned counsels however also submitted that the said controversy has already been settled by the Division Bench Judgment of this Court in the case of State of Tamil Nadu V. Tvl.The Premier Litho Works [(2009) 26 VST 205 (Mad)], which, we have also followed in another case decided by this Bench today itself, in the case of M/s.NPT Offset (P) Ltd. V. The Joint Commissioner II and another [W.P.No.20324 of 1999].

4.The Division Bench of this Court, in Premier Litho Works case, has held as under:

> "On the question whether the supply of printed materials by the dealer to its customer constituted a works contract and not inter-State sales:
>
> Held, dismissing the appeal, that what was supplied by the dealer was only labels on which certain particulars had been printed to suit the requirements of a particular customer. The labels, by themselves, could not really be sold in the open market, since without the product of the customer being packed with any package material, there was no use for the labels. It could not be the case of the appellants that persons who manufactured spurious goods under the very same brand name, had an opportunity to buy these labels, so as to pass off their goods as those of the customers of the dealer. The contractor undertaking to do the work would not necessarily be deemed to sell the materials by the fact that in the execution of the contract for work some materials were used and the property/goods so used, passed to the other party. Therefore, there was no reason to interfere with the order of the single judge. (see paras 11, 17 and 24)."

5.In view of this, the controversy involved in the present case on merits itself is now covered by the Division Bench Judgment of this Court and therefore, the Writ Petition filed by the State is liable to be dismissed and if the assessment proceedings, in pursuance of the remand order made by the Appellate Authority, are pending with the Assessing Authority, the same may be decided in the light of the two Division Bench Judgments referred to supra. The Writ Petition filed by the State is accordingly dismissed. No order as to costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

Sgl

To

1.Tvl.The Sundarson Process,
8-4-132, Mundaga Nadar Street,
Sivakasi.

2.The Secretary,
The Tamil Nadu Sales Tax Appellate Tribunal,
(Additional Bench), Madurai.

+1cc to Mr.P.Radhakrishnan, Advocate, SR.No.101608.
+1cc to Government Pleader, SR.No.101808.

W.P.No.29469 of 2002

RGN(CO)
CSR: 12.03.2020