IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2019

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THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No. 40029 of 2002

Automotive Coaches and
Components Limited,
No.86, Chamiers Roads,
Chennai - 600 018. ...Petitioner

Vs.

1.The Commercial Tax Officer,
Adayar I Assessment Circle,
Greenways Road,
Chennai - 600 028

2.The Tamil Nadu Sales Tax
Appellate Tribunal,
represented by its Secretary
(Main Branch),
City Civil Building, High Court Complex,
Chennai - 600 104

3.The Tamil Nadu Taxation Special Tribunal,
represented by its Registrar,
2nd Floor, Singaravelar Maaligai,
Chennai - 600 001. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, calling for the records on the files of the 3rd respondent herein in T.C.(R) No.10 of 1999 dated 27.02.2002 confirming the proceedings of the 2nd respondent herein in T.A.No.1222 of 1994 dated 19.12.1996 and the proceedings of the 1st respondent in R.C.112/92/B1 dated 16.04.1992, and quash the said proceedings of the 3rd respondent in T.C.(R) No.10 of 1999 dated 27.02.2002 in so far as it relates to imposition of penalty under Section 22 of the Tamil Nadu General Sales Tax Act, 1959.

For Petitioner : Mr.K.A.Parthasarathy for Mr.N.Inbarajan

For Respondents : Mr.Md.Shaffiq Special Government Pleader (Tax)

ORDER

[Order of this Court was made by T.S.SIVAGNANAM.,J]

We have heard Mr.K.A.Parthasarathy, the learned counsel for the petitioner and Md.Shaffiq, learned Special Government Pleader appearing for the respondents.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of Tamil Nadu General Sales Tax Act, 1959. The challenge in this writ petition is to an order passed by the Tamil Nadu Taxation Special Tribunal which refused to set aside the penalty imposed on the petitioner under Section 22(2) of the TNGST Act, 1959.

3. In the decision of the Hon'ble Division of this Court in the case of State of Tamil Nadu Vs. K.Mohammed Ibrahim Sahib reported in [(1991) Volume 83 Page 403], it has been held that no penalty can be levied, if the amount is collected and remitted to the Department. Similar is the view taken by the Hon'ble Division Bench in the case of State of Tamil Nadu Vs. Sakthi Sugars Ltd., reported in [(2004) Vol 137 Page 218].

4. Therefore, we are of the considered view that the Tribunal erred in dismissing the appeal filed by the petitioner/dealer and the interpretation given by the Tribunal, not to follow decision in the case of K.Mohammed Ibramim Sahib (cited supra) is incorrect.

5. Thus, for the above reasons the writ petition is allowed and the order passed by the Tribunal is set aside and penalty levied under Section 22(2) of the TNGST Act is set aside. No costs.

-Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

mrm

To

1.The Commercial Tax Officer,
Adayar I Assessment Circle,
Greenways Road,
Chennai - 600 028

2.The Secretary
Tamil Nadu Sales Tax
Appellate Tribunal,
(Main Branch),
City Civil Building, High Court Complex,
Chennai - 600 104

3.The Registrar,
Tamil Nadu Taxation Special Tribunal,
2nd Floor, Singaravelar Maaligai,
Chennai - 600 001.

- 1 cc to Mr.N.Inbarajan, Advocate Sr.No.30071
- 1 cc The Special Government Pleader, Sr.No. 30686

W.P.No.40029 of 2002

GP(CO)

RRI 08/06/2019