IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case No.2319 of 2008

The State of Tamil Nadu represented by
The Deputy Commissioner (CT), Salem
Division, Salem. ... Petitioner

-Vs-

Tvl.Tamil Nadu Cooperative Textile Processing
Mills Limited., No.1. Bhavani Main Road
Erode-5. ... Respondent

Prayer : Tax Case Revision under Section 38 of the Tamil Nadu General Sales Tax Act, 1959 against the order of the Sales Tax Appellate Tribunal (Additional Bench), Coimbatore, dated 04.04.2003 passed in C.T.S.A.No.164 of 2002, arising upon the order of the Appellate Assistant Commissioner (CT), Erode in his Appeal No.178/2000(1990-1991), dated 15.02.2001, against the Assessment Order dated 31.01.2000 in TNGST 723741/1990-1991 of the Deputy Commercial Tax Officer, Chithode Circle- Erode.

For Petitioner : Mr.Hariharan
for Mr.Haja Nazruddin,
Standing Counsel

For Respondent : No Appearance

O R D E R

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

The present tax case has been filed by the Revenue, aggrieved by the order passed by the Sales Tax Appellate Tribunal (Additional Bench), Coimbatore, dated 04.04.2003 in C.T.S.A.No.164 of 2002, dismissing the appeal filed by the

Revenue, and in favour of the respondent assessee Tamil Nadu Cooperative Textile Processing Mills Limited. The Tribunal held that the use of dyes and chemicals by the assessee, which executed the works contract in favour of its customers, was not taxable as there was no transfer of property to the customers.

2. Learned Counsel for the Revenue would submit that a Coordinate Bench of this Court has already decided similar revision petition in favour of the Revenue and placed before us, one such judgment in State of Tamil Nadu Vs Tex-in Printers reported in (2014) 70 VST 239 (Mad), in which a Coordinate Bench of this Court, in similar circumstances, held as under.

> "The learned Additional Government Pleader appearing for the Revenue placed before us the unreported decision of this Court dated July 1, 2011, passed in T.C.(R) Nos.842,817, 818, 819 to 823, 826, 841, 843, 849, 850, 870, 982, 987, 990, 1036, 1038 and 1040 of 2006, wherein identical questions of law were raised. In the said revision while following the decisions reported in Rainbow Colour Lab Vs State of Madhya Pradesh (2000) 118 STC 9 (SC) and Associated Cement Companies Ltd Vs.Commissioner of Customs (2001) 124 STC 59 (SC), this Court held that after introduction of Section 3B and aftr amendment made to the definition of "sale" under Section 2(n)(ii), the contention raised by the learned counsel for the assessee cannot be accepted, since by the operation of law, the transfer of goods involved in works contract would amount to "sale" taxable under section 3B. The assessee therein had purchased the dyes and chemicals from outside the State. Consequently, this Court held that the entire turnover was assessable to tax.
>
> In the circumstances, following the unreported decision of this Court dated July 1, 2011 passed in TC(R) Nos.842 of 2006 etc., batch, the above tax revision is allowed, thereby the order of the Sales Tax Appellate Tribunal is set aside. No costs."

3. None has appeared on behalf of the respondent assessee despite service, to controvert the aforesaid submissions made by the learned counsel for the Revenue. Accordingly, we allow the

present Tax Case Revision in favour of the Revenue in the same terms as that of the decision cited supra. No costs. A copy of this order shall be communicated to the respondent assessee.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. Sales Tax Appellate Tribunal (Additional Bench), Coimbatore-18.

2.The Deputy Commissioner (CT),
Salem Division, Salem.

3.The Appellate Assistant Commissioner(CT),
Erode.

4.Tvl.Tamil Nadu Cooperative Textile Processing Mills Limited., No.1. Bhavani
Main Road Erode-5.

+1cc to the Special Government Pleader Sr.52997

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srg 27/07/2019