IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.17053 of 2006

Tvl.Ganesh Seeds
Represented by its Proprietor,
M.Jagadeeswaran
30/2, Paithur Road, Attur.

...Petitioner

Vs

1.The Special Commissioner and
Commissioner of Commercial Taxes,
Chepauk, Chennai - 5.

2.The Deputy Commercial Tax Officer,
Attur (Town) Assessment Circle,
Attur. ... Respondents

Prayer: PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records on the files of the 2nd respondent in CST No.411139/2003-04 dated 28.02.2006 and quash the same.

For Petitioner : Mr.R.Senniappan

For Respondents : Mr. M. Hariharan, GA

---------------

O R D E R

The petitioner has challenged an order of assessment for the period 2003-04, passed in terms of the Central Sales Tax Act, 1956 (in short, 'Act') rejecting a claim of exemption on the turnover from sale of Hybrid Cotton Seed. The claim was made on the ground that the Hybrid seeds were sold for seeding purposes and Entry 7/Part B/III Schedule of the Tamil Nadu General Sales Tax Act, 1959 exempted 'all kinds of seeds including green manure seeds, excluding Oil Seeds described in the second schedule' from tax.

2. The Assessing Authority adopted the view that cotton seeds and groundnut are among those oil seeds described in the second schedule and taxable at 4%, if covered by Form 'C' and 8%, if not, and hence rejected the claim for exemption.

3. The question of taxability of Hybrid Cotton Seeds was also raised before the Special Commissioner and Commissioner of Commercial Taxes, who had issued a Clarification to the effect that the commodity is taxable at 4%. Orders of assessment passed based on the aforesaid Clarification in the case of other assessees, appear to have been earlier challenged before a learned single Judge of this Court, who had set aside the assessments and remanded the matters to the file of the Assessing Authority to be re-done denovo, independently and uninfluenced by the Clarification.

4. Thus, in line with the principles of consistency, it is appropriate that this matter also be remanded back to be completed afresh by the Assessing Officer after considering all/any materials that may be be furnished by the petitioner and affording it sufficient opportunity of being heard. Let this exercise be completed within a period of six (6) weeks from date of receipt of a copy of this order.

5. The impugned order is set aside and this Writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sl

To

1.The Special Commissioner and
Commissioner of Commercial Taxes,
Chepauk, Chennai - 5.

2.The Deputy Commercial Tax Officer,
Attur (Town) Assessment Circle,Attur.

+1cc to Mr.R.Senniappan , Advocate SR.No. 85759
+1 cc to Government Pleader Sr.No. 86146

Writ Petition No.17053 of 2006

gp A.SK(19/11/2019)