IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.20059 of 2008

M/s.Ram Oxygen (P) Ltd.,
131-C, Krishna Colony,
Singanallur, Coimbatore. ... Petitioner

-vs-

1. The Tamilnadu Sales Tax Appellate Tribunal
(Additional Bench), Coimbatore.

2. The Additional Appellate Assistant
Commissioner (CT), Coimbatore.

3. The Deputy Commercial Tax Officer,
Singanallur Assessment Circle,
Coimbatore. .. Respondents

PETITION filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the 1st respondent herein in CTSA No.23/00 and quash the order dated 05.06.2008 passed therein.

For Petitioner : Mr.Ravindran
for Mr.K.J.Chandran

For RR2 and 3 : Mrs.G.Dhanamadhri,
Government Advocate (Taxes)

ORDER
(Order of the Court was made by T.S.Sivagnanam, J.)

Heard Mr.Ravindran, learned counsel, for Mr.K.J.Chandran, learned counsel for the petitioner; and Mrs.G.Dhanamadhri, learned Government Advocate (Taxes) for respondents 2 and 3.

2.This writ petition has been filed by the petitioner challenging the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Coimbatore (for brevity "the Tribunal") in C.T.S.A.No.23/00, dated 05.06.2008.

3.The learned counsel for the petitioner submits that in the assessee's own case for the earlier assessment years, identical issue, which is involved in this writ petition, has been decided in favour of the assessee by a Hon'ble Division Bench of this Court in the case of State of Tamil Nadu vs. Ram Oxygen (Pvt.) Ltd. And Another, [2010] 35 VST 478 (Mad).

4.The issue involved is whether "medical oxygen" would fall under entry 95 of Schedule I, Part I as was existing in the year 1991 or entry 20A of Schedule I, Part C as was existing in the year 1993 or Schedule I, entry 106 as was existing in the year 1991 or entry 25 of Schedule I as was existing in the year 1993.

5.The Hon'ble Division Bench of this Court dismissed the tax case revisions as well as the writ petitions filed by the State holding that "medical oxygen" would fall only under entry 95 as of the year 1991 and under entry 20A as of the year 1993, and will not fall under entry 106 as of the year 1991 and entry 25 as of the year 1993.

6.Thus, following the above decision, this writ petition filed by the petitioner/dealer is allowed, the order passed by the Tribunal is set aside and the order passed by the first appellate authority is restored. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

abr
To
1. The Tamilnadu Sales Tax Appellate Tribunal
   (Additional Bench), Coimbatore-18.
2. The Additional Appellate Assistant
   Commissioner (CT), Coimbatore.
3. The Deputy Commercial Tax Officer,
   Singanallur Assessment Circle, Coimbatore.

+2cc to Mr.Ravindran, Advocate, S.R.No.19092

W.P.No.20059 of 2008

PP(CO)
CS/08/04/2019