IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 31.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.5871 of 2014
and
M.P.No.2 of 2014

M/s.Cauvery Buildtech,
Rep. by its Partner - R.Sekar,
New No.2, Luz Avenue,
Mylapore,
Chennai - 600004. ...Petitioner

Vs

1. The Commercial Tax Officer,
Alwarpet Assessment Circle,
Chennai.

2. The Special Commissioner &
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 5. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the 2nd respondent in his impugned Circular No.9/2013 - Act Cell-III/22237/2013 dated 24.07.2013, quash the same as being contrary to Section 18(1)(ii) of the TNVAT Act, 2006, contrary to the provisions of Special Economic Zones Act, 2005 and also issued against the principles of natural justice.

For Petitioner : Mrs.R.Hemalatha

For Respondents: Mrs.Dhanamadhri, GA

O R D E R

The impugned Circular No.9/2013, dated 24.07.2013 has already been upheld, when it was put under challenge in a batch of Writ Petitions in W.P.Nos.21453 of 2008, etc, by observing as follows:-

> 28.It is to be once again pointed out that the plea raised by the petitioner seeking for exemption by

relying on notifications issued under Section 17 of the TNGST Act is of little avail and if according to the petitioners, the sales are exempt, they they have to seek umbrage under Section 15 of the TNVAT Act, and placing reliance on Section 18 and interpreting that Section 18 has to be read in a truncated manner does not merit acceptance. It is beneficial to refer to the decision of the Hon'ble Supreme Court in the case of Kerala State Cooperative Marketing Federation vs. CIT, reported in MANU/SC/2021/1998 : [1998] 231 ITR 814 (SC), wherein the Hon'ble Supreme Court pointed out that it is a clear rule of statutory construction that, in trying to interpret a statutory provision, attention should be given to the setting in which the provision occurs and regard must be had to the language of an entire group of connected provisions which may form an integral whole. It is a settled rule of interpretation that in a taxing statue one has to look merely what is clearly stated, there is no room for any intendment, there is no equity about tax, there is no presumption as to tax, nothing is to be read in, nothing is to be implied and one can only look fairly to the language used.

29. For the reasons assigned, it is held that impugned Circular No.9 of 2013, dated 24.07.2013, sets out the statutory provision and the benefit which accrues to the dealer under Section 18 of the Act and the circular is neither contrary nor ultra vires of the provisions of the TNVAT Act, nor is it violative of Article 14 of the Constitution of India or irrational.

30. In the upshot, the prayer to quash the impugned circular is rejected and the Writ Petitions filed challenging the circular, are dismissed.

2. In view of the order in the aforesaid batch of Writ Petitions, this Court does not intend to take any contrary view. Hence, the present Writ Petition stands closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Commercial Tax Officer,
   Alwarpet Assessment Circle,
   Chennai.

2. The Special Commissioner &
   Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai - 5.

+1cc to The Special Government Pleader (Taxes) sr.65966
+1cc to Mrs.R.Hemalatha, Advocate sr.65762

W.P.No.5871 of 2014
and
M.P.No.2 of 2014

ss(co)
nr 23/09/2019