

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No.15215 of 2013

and

M.P. No.1 of 2013

M/s. The Anamallais Retreading Corporation,
Rep. by its Chief Executive,
Shri N. Shanmugasundaram
104, Anna Salai, Guindy, Chennai - 600 032.

... Petitioner

Vs.

1. The Commercial Tax Officer,
Saidapet Assessment Circle,
No.3, Tank Square Street,
Saidapet, Chennai - 600 015.

2.The Assistant Commissioner of Sales Tax,
Zone VII, Greams Road,
Chennai - 600 006.

... Respondents

Prayer: Writ Petition is filed under article 226 of the Constitution of India, to issue a Writ of mandamus directing the 1st respondent to issue to the petitioner herein the refund sum of Rs.17,54,318/- together with interest due thereon till the date of grant of refund or in the alternative, dispose of the Representation filed by the Petitioner dated 21.01.2013 on merits expeditiously.

For Petitioner : Mr.P. Senthil Kumar
for Mr. Muthukumar

For Respondents: M/s. G. Dhanamaddhri
(Government Advocate -Tax)

ORDER

The petition has been filed by the petitioner seeking for mandamus directing the respondents to refund a sum of Rs.17,54,318/- together with interest.

2. The learned counsel for the petitioner submits that the issue has been answered in favour of the petitioner by a

Division Bench of this Court in "State of Tamil Nadu Vs. Ganesh Automobiles" in its order dated 26.09.2001 in W.A.No.1228 of 1995. Per contra, learned counsel for the respondent submits that the respondents have taken up the issue before the Hon'ble Supreme Court and the case is pending for final disposal by the Hon'ble Supreme Court.

3. I have considered the arguments of the learned counsel for the petitioner and the respondents. As on date there is an order, which is apparently in favour of the petitioner, though the respondent has claimed that it has preferred an appeal before the Hon'ble Supreme Court against the aforesaid order. The aforesaid order of the Division Bench of this Court has not been stayed by the Hon'ble Supreme Court.

4. Under these circumstances, I am inclined to direct the respondent to pass appropriate orders in terms of the above decision of the Division Bench of this Court within a period of 30 days from the date of receipt of this order.

5. Since the respondents also claim that they have preferred further appeal against the order of the Division Bench of this Court in the above case, the respondents may keep the issue alive by filing a formal appeal before the appellate forum against the order to be passed pursuant to directions contained herein if indeed an appeal is pending before the Hon'ble Supreme Court.

6. Accordingly, the writ petition stands disposed with the above observation. No Cost. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

सत्यमेव जयते
Sub-Assistant Registrar

lbm

Copy to:

1. The Commercial Tax Officer,
Saidapet Assessment Circle,
No.3, Tank Square Street,
Saidapet, Chennai - 600 015.

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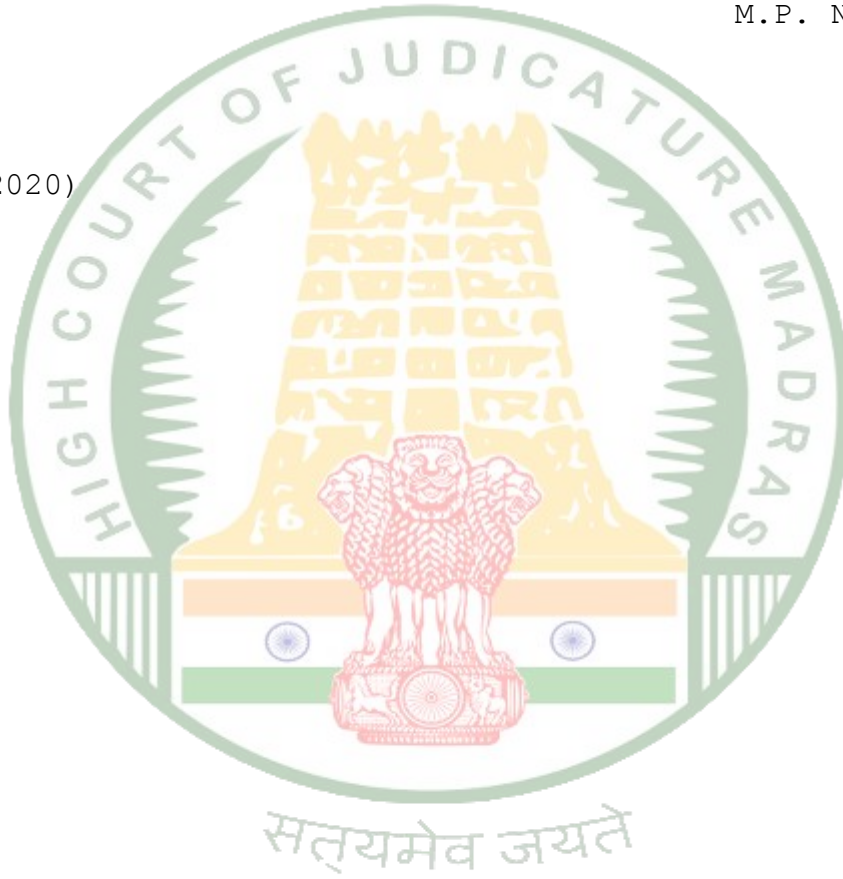
2. The Assistant Commissioner of Sales Tax,
Zone VII, Greams Road,
Chennai - 600 006.

+1 CC to Mr.N. Muthukumar, Advocate sr 4914

+1 CC to The Spl. Govt.Pleader sr 5409.

W.P. No.15215 of 2013
and
M.P. No.1 of 2013

RR(CO)
SP(21/02/2020)



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