IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM

THE HONOURABLE MR. JUSTICE DR.VINEET KOTHARI
&
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.35117 OF 2003

Tvl. Vijay Leathers and Products,
represented by the Partner,
at present: 34, Kalathiappa Street,
Choolai, Chennai 600 112. ...Petitioner

Vs

1. The Union of India,
represented by the Secretary,
Ministry of Revenue and Finance,
New Delhi.
2. The State of Tamilnadu,
represented by the Secretary,
Department of Commercial Taxes and
Religious Endowments,
Chennai 600 009.
3. Tamil Nadu Sales Tax Appellate Tribunal,
(Additional Bench),
represented by the Secretary,
City Civil Court Buildings,
Chennai 600 104.
4. The Deputy Commercial Tax Officer,
Ashok Nagar Assessment Circle,
Chennai. .. Respondents

Prayer:Writ Petition filed under Article 226 of C.P.C., praying for issuance of Writ of Certiorari calling for the records of the third respondent in T.A.No.848 of 2001 dated 11.3.2003 and quash the same as illegal.

For petitioner : Mr.V.Rajesh

For Respondents : Mr.R. Swarnavel
GA (Taxes)

ORDER

(Order of the Court was made by Dr.Vineet Kothari, J.)

The Assessee has filed this writ petition aggrieved by the order passed by the Tamil Nadu Sales Tax Appellate Tribunal, dated 11.3.2003, by which, the learned Tribunal has disallowed the claim of exemption on locally purchased tanned skins sold in the course of interstate sales to the extent of Rs.7,83,349/- and taxed the same at the rate of 2%. The Assessee claimed such inter-state purchases to be exempted being made in the course of export.

2.Learned counsel appearing for the petitioner has filed an Affidavit of this petitioner stating that in a similar situation, for the subsequent assessment years 1994-1995, for a remand made to the assessing authority, the assessing authority has granted relief to the Assessee. The assessee/petitioner submits that it being an old record, the record could not be produced but the Assessee believes that he was given a relief at the hands of assessing authority. Such Affidavit is taken on record.

3. For the same reasons, learned counsel for the Assessee had prayed for remand the present case relating to the assessment year 1990-1991 also to the Assessing Authority, who may pass fresh orders, after verifying the records in question available with him. He submit that the exemption claimed on major portion of local purchase on Rs.45,87,699/- was accepted by the assessing authority, however, the smaller portion of Rs.7,83,349/-, as aforesaid, was not accepted to be so, for want of production of records before him for such local transactions, which happened on account of shifting of the offices three times over by the Assessee.

4. In the peculiar facts and circumstances of the case, we accept the submission made by the learned counsel for the Assessee and remand the case back to the Assessing Authority for passing assessing order afresh in accordance with law. With the above observation, this petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Union of India,
Ministry of Revenue and Finance,
New Delhi.

2.The Secretary,
State of Tamilnadu,
Department of Commercial Taxes and
Religious Endowments,
Chennai 600 009.

3.The Secretary,
Tamil Nadu Sales Tax Appellate Tribunal,
(Additional Bench),
City Civil Court Buildings,
Chennai 600 104.

4.The Deputy Commercial Tax Officer,
Ashok Nagar Assessment Circle,
Chennai.

+1cc to the Special Government Pleader Sr.22812
+1cc to Mr.S.Sivanandam, Advocate Sr.22135

WP.No.35117 of 2003

rsd[co]
srg 15/07/2020