IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Writ Petition No.16636 of 2013
& M.P.Nos.1 and 2 of 2013

M/s. Yoga Bhuvaneswari Hardwares,
Rep. By its Proprietor - K.Sudhakar,
No.129-C Salem Road, Opp. RTO Office,
Namakkal 637 001, Namakkal District ... Petitioner

..vs..

1. State of Tamil Nadu, Rep. By its Secretary to Government,
Department of Commercial Taxes and Registration Department,
Fort St. George, Chennai 600 009

2. The Authority for Clarification and Advance Ruling,
Rep. By its Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai 600 005

3. The Assistant Commissioner (CT),
Namakkal (Town), Namakkal District ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the second respondent in its impugned proceeding in ACAAR 85/2012-13 dated 14.02.2013 of the second respondent and to quash the same. .

For Petitioner : Mrs. R.Hemalatha

For Respondents : Mr. A.N.R.Prathap,
Govt. Advocate (Taxes)

O R D E R

Heard Mrs.R.Hemalatha, learned counsel for the petitioner and Mr.A.N.R.Prathap, learned Government Advocate for the respondent.

2.The petitioner has filed this writ petition challenging the notice issued by the third respondent dated 14.02.2013, proposing to tax the petitioner on the sales of primers at 14.5% based on a clarification issued by the Commissioner. Indian Small Scale Paint Association and others moved this Court challenging the said clarification in W.P.Nos.12019 of 2013 etc., batch. The said writ petitions were dismissed, against which, the petitioners therein preferred Writ Appeals in W.A.Nos.1660, 1731 and 2135 of 2013. The Division Bench of this Court, by judgment dated 26.08.2014, granted liberty to the appellants to file applications under Section 48-A(4) of the Tamil Nadu Value Added Tax Act, 2006 to seek for review of the said clarification. Pursuant to the direction issued by the Division Bench, review applications filed, which were heard by the Authority for Clarification and Advance Ruling and the said authority by order dated 23.10.2014, clarified that the rate of tax for sale of primers shall be at 5%.

3. According to the learned counsel for both parties, the above clarification dated 23.10.2014 has not been amended or modified till date. In view of the same, the impugned order is set-aside and this writ petition is disposed of, directing the respondents to issue notice afresh to the petitioner and pass appropriate orders in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

srk

To

1. The Secretary to Government, State of Tamil Nadu,
   Department of Commercial Taxes and Registration Department,
   Fort St. George, Chennai 600 009

2. The Commissioner of Commercial Taxes,
   Authority for Clarification and Advance Ruling,
   Ezhilagam, Chepauk, Chennai 600 005

3. The Assistant Commissioner (CT),
   Namakkal (Town), Namakkal District

+1cc to M/s.R.Hemalatha, Advocate, Sr.No.18935
+1cc to Special Government Pleader(Taxes), Sr.No.19339

W.P.No.16636 of 2013
& M.P.Nos.1 and 2 of 2013

AK(CO)
GS(27/05/2020)