IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2020

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THE HON'BLE MR. JUSTICE C. SARAVANAN

W.P. No.36418 of 2005
(OP.No.1033 of 2003)

M/s.Dresser Rand India Pvt.Ltd.,
No.8, Whites Road,
Chennai - 600 014
Rep by its Vice-President,
(Total Solutions),
Mr.S.Sundara Raman. ... Petitioner

Vs.

1. State of Tamil Nadu,
   Represented by Secretary to Government,
   Commercial Tax,
   Fort St.George,
   Chennai - 600 009.

2. Commercial Tax Officer,
   Royapettah-I Assessment Circle,
   46, Greenways Road,
   Chennai - 600 028.

3. M/s.PPN Power Generating Company Ltd,
   1A, Nungambakkam High Road,
   Chennai - 600 034. ... Respondents

This above Petition was originally filed before the Tamil Nadu Taxation Special Tribunal and numbered as O.P.No.1033 of 2003. The said O.P was filed under Section 38-A of TNGST Act, declaring that Explanation V to Section 2(aa) of the Tamil Nadu General Sales Tax Act is unconstitutional and liable to be struck down as ultra vires Article 14, Article 19, Article 245 and 265 of the Constitution of India and Entry 54 of List 2 of Schedule VII and other relevant provisions of the Constitution of India including Article 366 Clause (29A) and quashing the same. Consequent to abolition of the above Tribunal, the said O.P was transferred to this Court and renumbered as W.P.No.36418 of 2005 (this Writ Petition).

For Petitioner : Mr.G.Baskar
for Mr.N.Muthukumar

For Respondents: Mr.A.N.R.Jayaprathap,
Government Advocate
for R1 and R2
R3 No appearance

ORDER

The petitioner had challenged the validity of Explanation V to Section 2(aa) of the Tamil Nadu Additional Sales Tax Act, 1970, introduced by the Amendment Act 23 of 2002. The issue was considered by a Single Judge of this Court in W.P(MD).No.1831 of 2007 in the case of M/s.Taher Ali Industries & Projects (P) Ltd Vs.The State of Tamil Nadu and Another. By an order dated 27.09.2011 the Writ Petition was allowed holding that the Explanation V to Section 2(1)(aa) was contrary to the Provisions of the Tamil Nadu Additional Sales Tax Act, 1970.

2.The appeal filed before the Division Bench, came up for consideration in W.P(MD).No.174 of 2013. The Writ Petition was dismissed and the order passed in W.P.(MD).No.1831 of 2007 was upheld. Since the issue is squarely covered by a decision of the Division Bench, I am of the view, there is no necessity for granting relief to the petitioner in this Writ Petition once again.

3.Accordingly, this Writ Petition stands dismissed. No cost.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To
1.The Secretary to Government,
Commercial Tax,
Fort St.George,
Chennai - 600 009.

2. The Commercial Tax Officer,
   Royapettah-I Assessment Circle,
   46, Greenways Road,
   Chennai - 600 028.

3. M/s.PPN Power Generating Company Ltd,
   1A, Nungambakkam High Road,
   Chennai - 600 034.

+1 CC to M/s. Special Government Pleader(T) sr 9593.
+1 CC to Mr.N.Muthukumar, Advocate sr 9197.

W.P. No.36418 of 2005

BP(CO)
SP(14/07/2020)