IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.35025 to 35027 of 2015
and
W.M.P. Nos. 1 ,1 & 1 of 2015

M/s. Classic Associates,
Rep. by its General Manager,
956-A, Poonamallee High Road,
Chennai - 84 ..Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
O/o. The Assistant Commissioner (CT),
Purasawakkam Assessment Circle,
Dowlath Tower, 7th Floor,
No.59, Taylors Road,
Kilpauk, Chennai - 10 ..Respondent in all W.Ps.

Common Prayer: Writ Petitions are filed under article 226 of the Constitution of India, seeking a Writ of Certiorari to call for the records of the respondent in the impugned notice in TIN No.33460481880/2007-08, 2008-09, 2009-10 dated 21.09.2015 respectively, quash the same and to direct the respondent to assess the sale of Industrial Cables by the petitioner under Entry 66 of Part-B to the First Schedule of the TN Vat Act.

For Petitioner (In all petitions): Ms.Radhika Chandra Sekhar
For Respondent(In all petitions): Mr. M. Hariharan
(Additional Govt. Pleader)

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

2. Short point that arises for consideration in these writ petitions is whether 4% tax is applicable for Industrial Cables which falls under Entry No.66 of Part -B of First Schedule to the TNVAT Act, 2006.

3. The learned counsel for the petitioner has relied on the decision reported in [2015] 85 VST 520 (Mad) in "Madras Electric Trades Association Vs. Commissioner of Commercial Taxes, Chepauk, Chennai", wherein this Court after considering the decision of the Hon'ble Division Bench of the Delhi High Court, has held in para 5 & 6 as follows:

> 5."The other aspect being that an identical issue came up for consideration before the Hon'ble Division Bench
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> of the Delhi High Court in the case of "Anchor Electrical (P) Ltd. Vs. Commissioner, Sales Tax [2014] 71 VST 427 (Delhi) in ST. Appl. No.45 of 2012," wherein the Delhi Sales Tax authorities contended that definition of "Industrial Cables" in the Electricity Act is purely technical and cannot be imported into any statutory authorization and sought to sustain the notification. The Hon'ble Division Bench of the Delhi High Court after taking into consideration of the definition of cable as defined under Section 2(g) of the Industrial Electricity Rules: "Voltage" in Section 2(av) of the Indian Industrial Electricity Rules, held that when statutory determination under the relevant law itself having classified 1100 volts cable as high voltage cables, there cannot be any difficulty in accepting the dealer's contention that the subject goods are industrial cables.
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> 6. In the light of the decision of the Delhi High Court which is pari materia to the present case, the clarification issued by the respondent is held to be not sustainable in law, as the classification of the cables under the relevant statutory provision is applicable for the purposes of taxation under the provisions of the Tamil Nadu Value Added Tax Act. Further the Authority for clarification of Advance Rulings, by order dated October 4, 2014, the applicant before the Authority was a dealer in electrical goods and he sought clarification as regards the rate of tax for high voltage cable. The Advance Ruling Authority after considering the entire matter, clarified that Industrial Cables which are high voltage cables with application above 650 volts are taxable at five per cent under entry 66 with the

description, "Industrial cables (high voltage cables, XLPE cables, jelly filled cables, optical fibre cables)" in part B of the First Schedule to the Act."

4. In the light of the aforesaid decisions, the writ petitions are allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (C.S.VI)

/True Copy/

Sub Assistant Registrar

To

The Commercial Tax Officer,
O/o. The Assistant Commissioner (CT),
Purasawakkam Assessment Circle,
Dowlath Tower, 7th Floor,
No.59, Taylors Road,
Kilpauk, Chennai - 10

+1 cc to M/s.K.Vaitheeswaran,Advocate Sr.No. 1227
+1 cc to The Special Government Pleader Sr.No. 1378

AKM/10.03.2020/3P-4C /

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