IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 2962 of 2017
and
W.M.P. No. 2847 of 2017

M/s.Super Audio (Madras) P.Ltd.,
By its Director Mr.Navin N.Daswini
Carex Building, 2nd Floor
No.713, Anna Salai, Chennai - 600 006.
... Petitioner

Vs

1. The Assistant Commissioner (CT)
Anna Salai Assessment Circle
4th Floor, CT Annexe Building,
Greams Road, Chennai - 600 006.

2. The Revision Authority of Advance Ruling
Commercial Taxes Department
Ezhilagam, Chepauk, Chennai - 600 005.
... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 06.01.2017 passed by the 1st respondent herein issued in respect of CST.789963/2013-14 of the petitioner company and pertaining to the assessment year 2013-14 and to quash the same, as the same has been passed in total violation to the principles of natural justice and without jurisdiction rendering the same untenable in law.

For Petitioner : Mr.N.Vishwanathan

For Respondents : Mr.ANR.Jayaprathap
Government Advocate

ORDER

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The Petitioner has filed this writ petition, seeking for issuance of a Writ of Certiorari, calling for the records relating to the impugned order dated 06.01.2017 passed by the 1st respondent herein issued in respect of CST:789963/2013-14 to the petitioner company, pertaining to the assessment year 2013-14 and to quash the same.

3. The petitioner is engaged in the business of trading in pre-recorded Audio and Video CDs which attract tax at of 5% VAT under Commodity Code 2068 of Schedule I, part B, Item No.68 read with Sub Item No.5 (d) under Notification V annexed to G.O.(Ms).No.3 CT and R(B1) Department, dated 01.01.2007.

4. However, the respondents contended that the petitioner is liable to pay tax at 14.5% under Part C of the First Schedule to the Tamil Nadu VAT Act, 2006. The petitioner was issued with a reminder notice. The petitioner thereafter filed a reply stating that it had approached the Advance Ruling Authority for clarification under Section 48A of the Tamil Nadu VAT Act, 2006.

5. The learned counsel for the petitioner submitted that though clarification was given by the Advance Ruling Authority against the petitioner on 06.01.2017, the petitioner had filed an application to review the said clarification and while that review petition was pending, the respondents passed the impugned order on 06.01.2017.

6. The learned counsel has now filed a copy of the review order dated 19.11.2018, passed by the Advance Ruling Authority, which has reviewed the earlier clarification, dated 06.01.2017. Hence, the learned counsel for the petitioner submits that impugned order of the first respondent in CST 789963/2013-14 was liable to be quashed.

7. Since the earlier clarification dated 06.01.2017, stands reviewed by an order dated 19.11.2018 of Advance Ruling Authority, this Court is inclined to accept the contentions of the learned counsel for the petitioner. Accordingly, the impugned order dated 06.01.2017 passed by the first respondent in CST 789963/2013-14 is quashed and therefore, the present writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Commissioner (CT)
Anna Salai Assessment Circle
4th Floor, CT Annexe Building,
Greams Road, Chennai - 600 006.

2. The Revision Authority of Advance Ruling
Commercial Taxes Department
Ezhilagam, Chepauk, Chennai - 600 005.

+2cc to Mr.Viswanathan, Advocate Sr.05869

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srg 18/03/2020