IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.2.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA

Writ Petition No.26799 of 2004 & WPMP.No.32630 of 2004

Damani Group Overseas,
rep.by its Partner Mr.V.N.
Damani, Chennai-17 ...Petitioner

Vs

1.The Commercial Tax Officer,
T.Nagar (South) Assessment
Circle, Chennai-28.

2.The Secretary, Sales Tax
Appellate Tribunal, Chennai-104. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in proceedings dated 19.8.2004 in Rc.No.4112/1999/A3 on the file of the first respondent, quash the same and direct the first respondent not to continue proceedings till the disposal of the petition T.M.P.No.258/2004 in T.A.No.543/1997 dated 10.3.2004 pending before the second respondent herein.

For Petitioner : No appearance

For Respondents: Mrs.G.Dhanamadhri, GA

Order of the Court was made by by T.S.SIVAGNANAM,J

We have heard Mrs.G.Dhanamadhri, learned Government Advocate appearing for the respondents. None appears on behalf of the petitioner.

2. This writ petition has been filed challenging the notice issued by the Assessing Officer directing the petitioner - assessee to pay the arrears of sales tax as well as penalty under the provisions of the Central Sales Tax Act for the

assessment year 1990-91 and also the penalty payable under the provisions of the Tamil Nadu General Sales Tax Act for the assessment year 1990-91.

3. Since none appeared on behalf of the petitioner on the earlier occasion, the Hon'ble Division Bench, by order dated 10.2.2020, directed notice to be sent to the petitioner - assessee. Accordingly, Registry sent the notice, which returned on 06.3.2020 with the endorsement 'vacated'. Thereafter, the matter came up before the same Hon'ble Division Bench on 09.3.2020 and the case was adjourned by two weeks with a direction to the Registry to reflect the name of the petitioner in the cause list. The said direction has been carried out and the name of the petitioner - assessee is printed in the cause list. However, even today, none appears on behalf of the petitioner.

4. It is not clear as to what was the outcome of the petition filed by the petitioner - assessee under the provisions of the Tamil Nadu Sales Tax (Settlement of Disputes) Act, 2002. Though the assessee stated that the entire tax liability under the Central Sales Tax Act has been discharged and the amount had been accepted, we find that there is no specific document produced before this Court to establish the said stand. That apart, we also find that the appeal, which was filed by the petitioner - assessee before the Sales Tax Appellate Tribunal, Main Bench in T.A.No.543 of 1997 was dismissed on 15.2.1999. The petitioner filed T.M.P.No.258 of 2004 on 10.3.2004 to set aside the order of the second respondent and restore the appeal to its file. There is nothing on record to show as to what had happened to the restoration petition. Thus, in the light of the above facts, we are not inclined to interfere with the impugned proceedings.

5. Accordingly, the above writ petition stands dismissed. However, liberty is granted to the petitioner to pursue their case in the event their appeal stood restored before the Sales Tax Appellate Tribunal. Consequently, the connected WPMP is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

RS

To

1.The Commercial Tax Officer, T.Nagar (South) Assessment Circle, Chennai-28.

2.The Secretary, Sales Tax Appellate Tribunal,
Chennai-104.

+1cc to Special Government Pleader(Taxes) SR.8548

W.P.No.26799 of 2004 &
WPMP.No.32630 of 2004

VG II(CO)
CB(08/03/2021)