IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.3.2021

CORAM

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

WRIT PETITION NO.6194 OF 2005

The State of Tamil Nadu, rep.
By the Deputy Commissioner (CT),
Coimbatore Division, Coimbatore ...Petitioner

Vs

1. Tvl.Chola Textiles Ltd.,
Tirupur.

2. The Secretary, Tamil Nadu
Sales Tax Appellate Tribunal
(Additional Bench), Coimbatore. ...Respondents

PETITION 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 pertaining to the order dated 30.9.2002 made in CTA.No.220 of 1997 and quash the same as illegal.

For Petitioner : Mr.R.Swarnavel, GA
For Respondent-1 : Mrs.R.Hemalatha

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

We have elaborately heard Mr.R.Swarnavel, learned Government Advocate appearing for the petitioner and Mrs.R.Hemalatha, learned counsel appearing for the first respondent.

2. This writ petition has been filed by the State challenging the order passed by the second respondent Tribunal, which allowed the appeal filed by the first respondent - a registered dealer under the provisions of the Central Sales Tax Act (for short, the CST Act) and the Tamil Nadu General Sales Tax Act.

3. The allegation, which was the basis for issuing the pre-assessment notice was that certain documents were not produced,

that the first respondent claimed exemption under Section 6(2) of the CST Act and that the sale of goods had taken place within a day or two. The first respondent submitted documents and filed their reply. But, the Assessing Officer did not agree with the first respondent and completed the assessment by order dated 30.8.1996.

4. Aggrieved by that, the first respondent filed an appeal before the Appellate Assistant Commissioner (CT), Pollachi, who, by order dated 30.5.1997, partly allowed the appeal. As against the disallowed portion, the first respondent filed further appeal before the Tribunal, which allowed it by the impugned order. The State has challenged the same by way of this writ petition.

5. We have carefully gone through the order passed by the Tribunal and we find that the Tribunal had done an elaborate fact finding exercise.

6. The Tribunal was conscious that it was the last fact finding Authority, called for entire records, examined the same meticulously and rendered a finding in favour of the first respondent - dealer. We have made this observation on going through the finding, which the Tribunal rendered in paragraph 13 of the impugned order. Furthermore, the Tribunal also rightly noted various decisions on the point.

7. That apart, in a recent decision of the Hon'ble Division Bench in the case of M/s.Advance Paints (P) Ltd. Vs. CTO, Valluvar Kottam Assessment Circle [W.P.No.14193 of 2001 dated 09.12.2019], it has been held that merely because the agent happened to sell the goods received from the Principal in Tamil Nadu on the same date of receipt of goods or on the very next day or any day immediately thereafter, it is not a ground to treat the stock transfer/branch transfer as an inter-state sale.

8. In the light of the said observation, we find that there are no good grounds to interfere with the impugned order passed by the Tribunal.

9. Accordingly, the above writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

RS

To

1. The Secretary, Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench, Coimbatore.

2. The Deputy Commissioner (CT) Coimbatore Division, Coimbatore.

+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.15920
+1cc to the Special Government Pleader (T), S.R.No.16497

W.P.No.6194 of 2005

PL(CO)
CS/07/04/2021