BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.09.2021
CORAM
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.9780 of 2007
and
M.P.(MD)No.1 of 2007

M/s.Kwality Granites and Marbles
Rep by its Proprietor
P.Ramkumar Bansal .. Petitioner

Vs.

The Deputy Commercial Tax Officer,
Tallakulam Assessment Circle,
Madurai. .. Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records in TNGST.4881413/2003-04 (Entry Tax) dated 28.09.2007 in the file of the respondent and quash the same.

For Petitioner : Mr.N.Sudalaimuthu
For Respondent : Mr.R.Sureshkumar
Government Advocate

ORDER

Prayer sought for herein is for a writ of certiorari, calling for the records in TNGST.4881413/2003-04 (Entry Tax), dated 28.09.2007 on the file of the respondent and quash the same.

2.The learned Government Advocate Mr.R.Sureshkumar, appearing for the respondent would submit that the issue raised in this Writ Petition is covered by a decision of this Court and he has produced a copy of the order passed by this Court in W.P.(MD)Nos.29131 to 29134 of 2016, dated 07.08.2020 in the matter of ***M/s.Pon Pure Chemical India Private Ltd., rep. by its Managing Director and others vs. The Commissioner of Commercial Taxes, Chepauk, Chenna***i.

3.In the said order, the learned Judge has taken the issue and passed the following order:

> *"2.When the petitioners herein had claimed refund of excess entry tax paid under Section 11 of Tamil Nadu Act 20 of 2001, on the ground that the Hon'ble Division Bench of this Court in the case of* ***ITC Ltd., Vs. State of Tamil Nadu and another*** *reported in* ***2007 (2) CTC 577****, had declared Tamil*

Nadu Tax on Entry of Goods into Local Areas Act, 2001 as unconstitutional, the respondent herein had intimated to them that the issue related to Entry Tax on Goods and Entry Tax on Vehicles is pending before the Hon'ble Apex Court.

3.Pending the Writ Petition, the Hon'ble Apex Court in the cases of ***Jindal Stainless Ltd., & another Vs. State of Haryana & others*** *reported in* ***2017 (12) SCC 1*** *had ordered that a tax on entry of goods into a local area for use, sale or consumption therein is permissible although similar goods are not produced within the taxing state.*

4.In view of the aforesaid decision of the Hon'ble Apex Court, the petitioners may not be entitled for refund of the excess entry tax paid. In view of the order of the Hon'ble Apex Court, no effective orders can be passed in these Writ Petitions. Accordingly, all the Writ Petitions stand closed. No costs."

4.Similar issue also had come up before me in W.P.(MD).No.11686 of 2009, where also I have passed a similar order.

5.The said position cannot be controverted by the learned counsel appearing for the petitioner.

6.In view of the above, this Writ Petition, since have been covered by the said decisions, is liable to be rejected and accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

To

The Deputy Commercial Tax Officer,
Tallakulam Assessment Circle,
Madurai.

+1 CC to M/s.SPL.GP (SR-30715[F] dated 30/09/2021)

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-30827[F] dated 30/09/2021)

W.P.(MD) No.9780 of 2007
29.09.2021

SRK(CO)
KB(12.11.2021) 3P 4C