BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:31.08.2021
CORAM:
THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**
W.P.(MD)No.10625 of 2012
and
WP(MD)No.1 of 2012

Tvl.Jupiter Industries
Rep.by its Partner
TR.Ganesh ... Petitioner

vs.

1.The State of Tamil Nadu,
represented by the Secretary to Government,
Department of Commercial Taxes,
Fort St. George,
Chennai-600 009.

2.Special Commissioner &
Commissioner of Commercial Taxes,
Commercial Taxes Dept.,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The Assistant Commissioner-Commercial Taxes,
Thirupparankundram Assessment Circle,
Madurai- 625 020. ... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring that section 19(2) (v) read with section 19 (5) (c) of the Tamil Nadu Value Added Tax Act, 2006 and Rule 10 (9) (a) of the Tamil Nadu Value Added Tax Rules, 2007 are void as being inconsistent with Articles 14 and 19 (1) (g), besides being violative of Article 301 of the Constitution of India and, therefore, inoperative and unenforceable, and recoveries pursuant thereto are without authority of law and infringe Article 265 of the Constitution of India.

For Petitioner : Mr.R.Krishnamoorthy
for Mr.T.Bashyam
For Respondents : Mr.R.Sureshkumar
Government Advocate

O R D E R

Prayer sought for in this writ petition is for a writ of Declaration, declaring that section 19(2) (v) read with section 19 (5) (c) of the Tamil Nadu Value Added Tax Act, 2006 and Rule 10 (9) (a) of the Tamil Nadu Value Added Tax Rules, 2007 are void as being inconsistent with Articles 14 and 19 (1) (g), besides being violative of Article 301 of the Constitution of India and, therefore, inoperative and unenforceable, and recoveries pursuant thereto are without authority of law and infringe Article 265 of the Constitution of India.

2.At the outset, it is submitted by the learned Government Counsel Mr.R.Suresh Kumar, appearing for the respondent that the very same provision since have already been challenged in W.P(MD). Nos.20528 of 2013, etc., batch, in the matter of ***Poonam Trading Company rep. by its partner, S.Navin S.Patel vs. State of Tamilnadu rep. by the Secretary to Government, Commercial Taxes and Registration Department and others,*** a Division Bench of this Court, by order, dated 24.02.2020 has rejected the same in view of the judgment made by the Hon'ble Apex Court in ***TVS Motor Company Limited v. The State of Tamilnadu and others, reported in AIR 2018 SC 5624,*** by making this submission, the learned Government Counsel relied upon the said Judgment, where the Division Bench has passed the following order:

> "The issue raised in these writ petitions is no longer *res integra* in view of the judgment of the Supreme Court in ***TVS Motor Company Limited v. The State of Tamilnadu and others, reported in AIR 2018 SC 5624,*** upholding the vires of Section 19(5)(c) of the Tamil Nadu Value Added Tax Act, 2006 and Rule 10(9) (a) of the Tamil Nadu Value Added Tax Rules, 2007, which is under challenge.
>
> 2.In view of the said decision, these writ petitions are dismissed. No Costs. Consequently, connected miscellaneous petitions are closed."

3.In view of the said order, having been passed by the Division Bench of this Court, where the very same challenge had been negated by following the decision of the Hon'ble Supreme Court in TVS Motor Company Ltd., case, cited supra, the present challenge in this writ petition shall also face the same fate, and accordingly, this writ petition is liable to be rejected.

4.In the result, this writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government,
State of Tamil Nadu,
Department of Commercial Taxes,
Fort St. George,
Chennai-600 009.

2.Special Commissioner &
Commissioner of Commercial Taxes,
Commercial Taxes Dept.,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The Assistant Commissioner-Commercial Taxes,
Thirupparankundram Assessment Circle,
Madurai- 625 020.

+1 CC to M/s.SPL GP (SR-27772[F] dated 01/09/2021)

W.P.(MD) No.10625 of 2012
31.08.2021

PS(CO)
KB(06.10.2021) 3P 5C