BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.08.2021
CORAM
THE HON'BLE MR.JUSTICE R.SURESH KUMAR
W.P.(MD)No.15679 of 2014
and
M.P(MD).No.2 of 2014
(Through Video Conference)

M/s.Laxmi Selvaraaj Tex Private Limited,
Represented by its Managing Director
K.P.S.Manoharan .. Petitioner

Vs.

1.The Principal Secretary/Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai- 600 005.

2.The Assistant Commissioner (CT),
Commercial Tax, Madurai,
Madurai. .. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of the first respondent in VAT Cell/37188/2011 and quash the circular 22/2011 dated 20.10.2011 of the first respondent and consequently all proceedings arising there from initiated by the second respondent.

For Petitioner : Mrs.S.Srimathy
for Mr.S.M.S.Johnny Basha
For Respondents : Mr.R.Suresh Kumar
Government Advocate

ORDER

Prayer sought for herein is for a Writ of Certiorari, to call for the records of the first respondent in VAT Cell/37188/2011 and quash the circular 22/2011, dated 20.10.2011, of the first respondent and consequently, all proceedings arising there from, initiated by the second respondent.

2.The Circular No.22/2011, dated 20.10.2011 issued by the respondent revenue has been put under challenge in this writ petition.

3. When this case is taken up for hearing, Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents has submitted that, already some of the writ petitions had been filed challenging the very same Circular, where, those writ petitions were rejected by this Court, and in support of his contention, he produced a copy of the order passed by two learned Judges, in ***W.P.No.27498 of 2014*** dated 11.03.2020 in the matter ***of M/s.Om Textiles vs. The Principal Secretary/Commissioner of Commercial Taxes and another,*** and another order made in ***W.P.No.27757 of 2014*** dated 17.09.2020 in ***Sri K.T.Oil Mills vs. The Principal Secretary/Commissioner of Commercial Taxes and another.*** In both the cases, the learned respective Judges have dismissed the writ petitions that no challenge could be made against the said Circular for the reasons stated therein.

4.The said position is not controverted by the learned counsel for the petitioner, however, she submits that the petitioner is a Company and it is under liquidation, therefore, the said fact also can be taken note of and orders following the earlier orders can be passed.

5.I have heard the said submissions made by the learned counsel appearing for the parties and have gone through the orders passed by this Court in the above referred two writ petitions, where, in W.P.No.27498 of 2014, the learned Judge, by relying upon the earlier order, in ***Interfit Techno Products Limited v.The Principal Secretary/Commissioner of Commercial Taxes and another,*** reported in ***(2015) 81 VST 389 (Mad),*** has rejected the said writ petition and in W.P.No.27757 of 2014, the learned Judge, by order, dated 17.09.2020 has passed the following order:

> *"2.The circular passed by the first respondent herein in VAT Cell/Roc.No/37188/2011 (Circular No.22/2011) dated 20.10.2011, is put under challenge in the present writ petition.*
>
> *3.In the case of Commissioner of Sales Tax, U.P. v. Indira Industries reported in (2001) 248 ITR 338, the Hon'ble Apex Court has held that, a circular by the Sales Tax Authority is not binding either on the Courts or on the Assessees, but is binding on the Taxing Authority. As such, the present Writ Petition challenging the circular, cannot be maintained. Accordingly, the Writ Petition stands dismissed. No Costs."*

6.In view of the said Judgment, where, the very same impugned

Circular challenged, had been negated by rejecting the respective writ petitions, I am of the view that, this writ petition also should face the same feet, therefore, it is liable to be dismissed, 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 III)

// 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 Principal Secretary/Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai- 600 005.

2.The Assistant Commissioner (CT),
Commercial Tax, Madurai,
Madurai.

+1 CC to M/s.SPL GP (SR-27055[F] dated 24/08/2021)

W.P.(MD)No.15679 of 2014
23.08.2021

NSN(CO)
SB(16.09.2021) 3P 4C