IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No. 10031 of 2008

M/s.Marudamalai Sri Velmurugan Textiles,
Represented by its Managing Partner- R.Chandrasekaran,
No.4, Veerapandipudur,
Thudiyalur,
Coimbatore. ... Petitioner

-vs-

1. The Secretary,
The Tamil Nadu Sales Tax Appellate Tribunal,
(Addl. Bench), Coimbatore-18.

2. The Commercial Tax Officer,
Thudiyalur Circle,
Coimbatore. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorari to call for the records of the 1st Respondent-Appellate Tribunal passed in CTSA. No.285/2004 dated 20.12.2007, quash the same as illegal and contrary to the provisions of Law.

For Petitioner : Mr. R.Hemalatha

For Respondents : Ms.K.Vasanthamala
Government Advocate

O R D E R

This Writ Petition has been filed challenging the order of Tamil Nadu State Tax Appellate Tribunal (Additional Bench), Coimbatore dated 20.12.2007, in remanding the matter back to the Assessing Authority.

2. According to the Petitioner, the Petitioner is a dealer registered under the Tamil Nadu General Sales Tax Act, 1959 (for brevity 'the Act') and also under the Central Sales Tax Act, 1956. The Petitioner is engaged in the manufacture of staple fibre yarn, for which it had obtained cotton yarn from dealers outside the State and converted the same into staple fibre yarn and transferred the consignments to the Principal/owner of the cotton yarn.

3. The Assessing Authority passed an order of assessment dated 31.01.2000 stating that a turnover of Rs.85,59,738/- represents direct interstate sale and documents were made to camouflage the same as Consignment transfer to other States Being aggrieved over the same, the Petitioner preferred an Appeal before the Appellate Authority under Section 31 of the Act and the said Authority vide order dated

31.01.2001 in A.P.No.CST 17/2000, after hearing the Petitioner remanded the matter back to the Assessing authority with a direction to consider each and every slip and pass appropriate orders. Thereafter, the Assessing authority after issuance of notice to the Petitioner and on receiving the reply of the Petitioner, refixed the taxable turnover at Rs.78,38,731/- and levied the tax disallowing the exemption made by the Petitioner.

4. Being aggrieved the Petitioner preferred an Appeal before the Appellate authority and the said Authority vide order dated 24.03.2003 allowed the Appeal in A.P.No.CST 10/2002. Challenging the same, the Department preferred an Appeal before the 1st Respondent-Tribunal and the Appellate Tribunal on hearing the parties was of the view that the question as to whether a transaction would constitute interstate sale or otherwise has to be decided on the material produced before the Assessing Officer and thereby remitted the matter back to the Assessing Authority and fixed time limit of three months to comply with the said proceedings. Challenging the said order, the present Writ Petition came to be filed by the Petitioner.

5. It is against the above order of remand by the Tribunal, the present Writ Petition is filed. We find no reason to interfere with the order of the Tribunal, which has only remanded the matter back to authority to re-examine the question as to whether the

transaction are inter-State sale or inter-State "Consignment transfer". When the Writ Petition is taken up, the learned counsel appearing for the Petitioner as well as the Respondents submitted that they do not have any instructions as to whether the Assessment has been completed as per the directions of the Tribunal.

6. In view of the same, we make it clear that if the orders have been passed pursuant to the order of remand by the Tribunal and if the Petitioner is aggrieved over the same, it is open for the Petitioner to seek redressal in accordance with law. If for any reason, the orders are yet to be passed by the Assessing Officer as per the directions of the Tribunal, the Assessing authority shall complete the assessment and pass orders, after giving an opportunity of hearing to the Petitioner within a period of three months from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above directions. No costs.

[S.V.N., J.]　　　[M.S.Q., J.]
14.12.2022

Index: Yes / No
Internet: Yes / No
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To:

1. The Secretary,
   The Tamil Nadu Sales Tax Appellate Tribunal,
   (Addl. Bench), Coimbatore-18.

2. The Commercial Tax Officer,
   Thudiyalur Circle,
   Coimbatore.

S. VAIDYANATHAN, J.
and
MOHAMMED SHAFFIQ, J.

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