IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM :

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MR. JUSTICE C.SARAVANAN

W.P.No.30459 of 2007

Tvl.Samundeeswari Jewellery,
rep. by its Proprietor,
R.Devadoss,
No.435, Main Bazaar,
Vellore. .. Petitioner

Versus

1. Tamil Nadu Sales Tax
Appellate Tribunal,
rep. by its Secretary,
2nd Floor,
City Civil Court Buildings,
Chennai- 600 104.

2. The Appellate Assistant
Commissioner (CT),
C.T.Buildings,
Fort Round,
Vellore-1.

3. The Deputy Commercial Tax Officer,
Vellore (Rural) Assessment Circle,
Fort Round,
Vellore-1. .. 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 first respondent in S.T.A.No.1052 of 2001 dated 06.09.2006 and quash the same in so far as it impose tax on the income declared under the VDIS Scheme.

For Petitioner	:	Ms.K.Soundararajan
For Respondents	:	R1-Tribunal Mr.C.Harsharaj (R2 and R3) Additional Government Pleader

O R D E R

S.VAIDYANATHAN,J
and
C.SARAVANAN, J

The Petitioner has filed this Writ Petition agianst the order dated 06.09.2006 of the 1st Respondent TNSTA in S.T.A.No.1052/2001. By the impugned order, the Tribunal has accepted the State Tax Appeal filed by the Deputy Commissioner, Commercial Tax against the order of the Appellate Assistant Commissioner (CT) Vellore dated 31.05.2000 in A.No.279/1999.

2. Earlier the Petitioner suffered a adverse order in the hands of the 3rd Respondent on 30.03.1999 for the Assessment Year 1997-1998. The specific case of the Petitioner is that the Petitioner cannot be subjected to tax under the provisions of Section 7 -A of Tamil Nadu General Sales Tax Act, 1959 (in short 'the Act') inasmuch as the petitioner had declared gold valued for a sum of Rs.20,90,500/- under the Voluntary Disclosure of Income Scheme, 1997 (VDIS, 1997 for brevity) which was in vogue during 1997.

3. In this case connection, the learned counsel for the Petitioner has drawn attention to the Income and Expenditure Account for the year ending on 31.03.1998 of the Petitioner's father Sri.P.Ranganathan, a Pawn Broker.

4. It is submitted that in the aforesaid account, there is a categorical disclosure of 5.140 kgs of gold which were not earlier disclosed by the Petitioner's father and that they were brought to the Assessment for the period commencing from 1962-1963 upto 80-81. As far as gold jewels are concerned, it pertains to purchase of gold for the Assessment Year 1975-

1976 to 1980-1981, reliance was made to the Press Notes/Releases issued by the Government of India under the Voluntary Disclosure of Income Scheme,1997 dated 03.12.1997 by the Deputy Secretary to the Government of India, New Delhi.

5. In this connection, it is submitted by the learned counsel for the Petitioner that the gold which was brought to the Books of Accounts for the purpose of VDIS, 1997 valued in 1997 was to be valued as on 01.04.1987 and therefore the value of gold which was brought into the Petitioner's Books of Accounts weighing 5.140 kgs which was to be valued at 47.25 per gram. It is further submitted the well considered decision of the 2nd Respondent vide order dated 31.05.2000 has been interfered by the Tribunal and hence the order of the Tribunal was liable to be set aside.

6. On the other hand, the learned counsel for the Respondents 2 and 3 submitted that the order of the Tribunal is well reasoned one and requires no interference. It is further submitted that the disclosure value of the gold declared by the Petitioner has been quantified at Rs.16,70,500/- in the Income and Expenditure Account for the purpose of

VDIS 1997. It is submitted that the Jewel which was brought into business of the Petitioner has to suffer Purchase Tax in terms of Section 7A of the Act. Therefore, the Tribunal has rightly Appellate Assistant Commissioner 131 to 2000.

7. We have given careful consideration of the submissions made by the learned counsel for the Petitioner and the learned counsel for the Respondent.

8. From the perusal of records, it is seen that benefit of VDIS, 1997 was availed by the Petitioner's father Shri.P.Ranganathan and not by the Ptitioner. A declaration was filed under the aforesaid scheme by the Petitioner's father Shri.P.Ranganathan. The business of the Petitioner's father has been shown as that of a pawnbroker. On the other hand, the business that was carried out by the Petitioner as an Assessee under the provisions of TNGST Act is that of a jewellwer. Therefore, the disclosure made by the Petitioner's father under the VDIS, 1997 is not relevant for completing the Assessment under the TNGST Act as two businesses of the Petitioner and his father are different and independent.

9. A reference to press note issued under the VDIS,1997 and certificate issued under Section 68 (ii) of the VDIS, 1997 in favour of the Petitioner's father is also not relvelant for determination of tax liability of the Petitioner under Section 7 -A of the Act. It is noticed that the Assessment Officer as well as Tribunal has accepted the same. We do not wish to bestow upon Petitioner any further relief which the Petitioner is not entitled to in view of the above discussion. The Petitioner has got a partial relief before the Tribunal in the impugned order, which was actually not available to the petitioner. Since the State has not filed any Appeal, we do not want to disturb the same and interfere with the Impugned Order of the Tribunal.

10. In view of the same, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.V.N., J.,] [C.S.N., J]
08.09.2022

Index: Yes / No
Internet: Yes / No

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To

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