IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM

THE HON'BLE MR.JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR .JUSTICE C.SARAVANAN

W.P. No. 48910 of 2006

&

M.P. No. 2 of 2006

M/s. Rambal Limited,
No.150, Muthulakshmi Salai,
Chennai 600 031,
Now @ No.20, Corporation Road,
Seevaram, Perungudi – 600 096. ..Petitioner

Vs.

1. The Secretary,
Tamil Nadu Sales Tax Appellate
Tribunal (MB),
City Civil Court Buildings,
II Floor, Chennai 600 104.

2. The Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
Chennai 600 015. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the first respondent in COP No. 371/01 in STA No. 464/01, quash the impugned order dated 19.09.2003 insofar it relates to the dismissal of the Cross-objection filed by the petitioner and further direct the respondents to exclude the amount of Rs.6,72,000/- received by the petitioner under the "International Price Reimbursement Scheme" from the "Engineering Export Promotion Council", Ministry of Commerce, Government of India from the computation of the taxable turnover for the assessment year TNGST1994-1995 under the provisions of the Tamil Nadu General Sales Tax Act, 1959.

For Petitioner	::	Mr.V. Sundareswaran
For Respondents	::	Mr.T.N.C. Kaushik Addl. Govt. Pleader

O R D E R

S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

The petitioner has filed this writ petition as against the impugned order dated 19.09.2003 passed by the 1st respondent/Tamil Nadu Sales Tax Appellate Tribunal in STA No. 464/2001 and cross-objection petition No. 371/2001. The said cross-objection was filed by the petitioner herein before the Tribunal.

2. The Tribunal has rejected the appeal and the cross-objection with the following observations:

'8. The counsel for the respondent has filed cross objection petition as against the order of the Appellate Assistant Commissioner in the State Tribunal Appeal. In the Cross Objection Petition, he claimed exemption on the receipts of cash incentive on the ground that does not constitute 'goods' under the Act. The learned Appellate Assistant Commissioner in Para-3 of his order, had dealt with the form XVII

declarations produced by the appellant before him. The first appellate authority verified the relevant forms to the value of Rs.4,43,356/- and inturn remanded the portion of turnover back to the assessing officer. Hehad sustained the assessment made on the turnover of Rs.7,16,793/- on the ground that, no declaration forms have been filed by the respondent before him and therefore, the first appellate authority confirmed the assessment on the aforesaid turnover. The first appellate authority has also found that there is no documentary evidence for their contention that, the export incentive receipt and miscellaneous income are not liable to tax and that the amounts are not at all turnover. In the absence of satisfactory evidence, it is not possible for the assessee to file to Cross Objection pettiion as claimed by him. The first appellate authority has correctly come to the conclusion and after discussing the issue and after hearing the submission of both the authorised representative and the departmental representative before him he sustained the assessment made on the aforesaid turnovers. Therefore, we are of the view that, Cross Objection Petition filed by the counsel for the respondent is only a written submission and it is closed.'

3. The specific case of the petitioner is that the petitioner has exported the goods namely, Auto Precision Tuned components for which the petitioner had purchased steel locally. It is submitted that during the material period, i.e, during the assessment year 1994-1995 and prior to that, a scheme called 'International Price Reimbursement Scheme' was in force, which entailed an exporter the price difference between the local price and the international price. It is the case of the petitioner that during the assessment year 1994-1995, the petitioner had exported Auto Precision Tuned components using steel purchased locally and therefore, the petitioner was entitled for proportionate reduction in the turnover. The case of the petitioner is that the petitioner has relevant documents to substantiate that the petitioner had obtained necessary certificates under the 'International Price Reimbursement Scheme' from the Engineering Export Promotion Council. Reference was made to documents at Page Nos. 1 to 11 to substantiate the same. The learned counsel for the petitioner would further state that the actual payment recieved by a dealer in a particular assessment year would not relate wholly to the incentive earned for the particular assessment year. The reimbursement of the incentive may relate

to other years since the Council has to verify the details and thereafter reimburse the amount to the petitioner. So, even the imposition of the tax on the export incentives by the Department on the petitioner is not correct on this ground.

4. Learned Additional Government Pleader for the respondent would submit that the impugned order is well-reasoned and requires no interference. He would further submit that the petitioner has neither produced any document to substantiate the fact that the petitioner had received such certificates from the Engineering Export Promotion Council either before the Original Authority, the first Appellate Authority or before the 1st respondent Tribunal. It is submitted that even before this Court, in this writ petition, the petitioner has not produced any document. He would further submit that there are no merits in the writ petition and therefore, it is liable to be dismissed.

5. We have considered the arguments advanced by the learned counsel for the petitioner as well as the learned Additional Government

Pleader for the respondent and perused the impugned order passed by the Tribunal dismissing both the Revenue's appeal and the petitioner's cross-objection.

6. The facts on record indicate that the petitioner has not produced any document or evidence in support of its contention either before this Court, the 1st respondent Tribunal, the first Appellate Authority or the Original Authority. We find no merits in the writ petition and the same is accordingly dismissed. No costs. Consequently, connected C.M.P. is closed.

(S.V.N.J.) (C.S.N.J.)
nv 19.10.2022

To
1. The Secretary,
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2. The Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
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