IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

Review Application (W) Nos.12 to 17 of 2021
and
WMP.Nos.1410, 1418, 1421, 1424, 1433 and 1435 of 2021
in
W.P.Nos.24656, 24657, 24658 of 2008 and 6165, 4842 and 4843 of 2009

M/s.Sundaram Finance Ltd.,
Represented by its Senior General Manager
& Head - Indirect Taxation
Mr.R.Sridharan,
No.21, Pattulos Road,
Chennai - 600 002. ...Petitioner in Rev.Appln.Nos.12, 13, 14 and 15 of 2021

M/s.Lakshmi General Finance Ltd.,
Merged with M/s.Sundaram Finance Ltd.,
Represented by its Senior General Manager
& Head - Indirect Taxation,
Mr.R.Sridharan,
No.47, Whites Road,
Chennai - 600 002.
...Petitioner in Rev.Appln.Nos.16 and 17 of 2021

Vs.

1.The State of Tamil Nadu
Rep.by the Secretary to Government,
Secretariat, Chennai.

2.The Special Commissioner and
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

3.The Assistant Commissioner (CT) (FAC)
Anna Salai - II Assessment Circle,
No.621, Sire Mansion,
Anna Salai, Chennai - 600 006.
...Respondents in all Review Petitions

COMMON PRAYER: Review petitions are filed under Order 47 Rules 1 & 2 CPC r/w Section 114 CPC, to review the common order dated 17.03.2020 passed in W.P.Nos.24656, 24657 & 24658 of 2008 and 6165, 4842 & 4843 of 2009.

Prayer in W.P.Nos.24656 to 24658 of 2008 and 6165 of 2009 : Petitions filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records of the 3rd respondent in the impugned revision orders TNGST No.0620046/2002-03, 0620046/2003-04 and 0620046/2004-05 dated 25.08.2008 and TNGST No.0620046/2002-03 dated 04.03.2009 respectively, quash the same as the impugned orders are without jurisdiction and beyond the powers conferred under Entry 54, List II, Seventh Schedule of the Constitution of India and in violation of Article 265, Article 286, Article 14, Article 19(l)(g) of the Constitution of India and Section 3A(2)(a) of the Tamilnadu General Sales Tax Act, 1959.

Prayer in W.P.Nos.4842 and 4843 of 2009 : Petitions filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records of the 3rd respondent in the impugned revision orders in TNGST Nos.06200111/2002-03 and 06200111/2003-04 dated 31.12.2008 and quash the same as the impugned orders are without jurisdiction and beyond the powers conferred under Entry 54, List-II, Seventh Schedule of the Constitution of India and in violation of Article 265, Article 286, Article 14, Article 19(1)(g) of the Constitution of India and Section 3A(2)(a) of the Tamilnadu General Sales Tax Act, 1959.

For Petitioners : Mr.P.Rajkumar in all cases

For Respondents : Mr.M.Venkateswaran,
Special Government Pleader in all cases

COMMON ORDER

Originally, the petitioners preferred writ petitions viz., WP.No.24656 of 2008 etc. batch, praying to issue a writ of certiorari, calling for the records of the third respondent in the impugned revision orders in TNGST Nos.0620046/2002-03, 0620046/2003-04 and 0620046/2004-05, dated 25.08.2008 and TNGST No.0620046/2002-03 dated 04.03.2009 and TNGST Nos.06200111/2002-03 and 06200111/2003-04 dated 31.12.2008 and quash the same as without jurisdiction and beyond the powers conferred under Entry 54, List - II, Seventh Schedule of the Constitution of India and in violation of Articles 265, 286, 14 and 19(1) (g) of the Constitution of India and Section 3A(2)(a) of the Tamil Nadu General Sales Tax Act, 1959.

2.This Court, vide order dated 17.03.2020, disposed of the aforesaid writ petitions, after hearing the submissions of the learned counsel appearing for the petitioners, who sought liberty to the petitioners to file appeals before the appellate authority. The relevant portion of the said order is extracted hereunder:-

> "2.However, when these matters were taken up for hearing, the learned counsel for the petitioners submitted that it would suffice, if the petitioners are granted liberty to file appeals before the appellate authority as against the orders impugned herein, for which, the learned counsel appearing for the respondents have no serious objection.
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> 3.Considering the limited nature of the relief now sought for by the learned counsel for the petitioners, which has not been seriously opposed on the side of the respondents, this court permits the petitioners to file appeals before the appellate authority within a period of two weeks from the date of receipt of a copy of this order. On such filing, the appellate authority shall entertain the same, without raising any issue relating to limitation and consider the same and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioners within a period of four weeks thereafter."

The aforesaid order is sought to be reviewed in these review applications.

3.The learned counsel appearing for the petitioners submitted that the issue involved in the writ petitions is squarely covered by the decisions of the Hon'ble Supreme Court in the case of 20th Century Finance Corporation Limited v. State of Maharashtra, reported in 119 STC 182, as well as the Division Bench of this Court dated 14.11.2013 in TC(R)Nos.396 to 406 of 2011, however, the said fact was not brought to the knowledge of this court by the learned counsel, due to oversight. Therefore, the learned counsel sought to review the order impugned herein, only to the extent of recalling the same and posting the writ petitions before the court concerned for passing appropriate orders, for which, the learned Special Government Pleader appearing for the respondents has no serious objection.

4.Taking note of the limited relief sought herein by the learned counsel for the petitioners, which has not been seriously opposed on the side of the respondents, this court recalls the common order dated 17.03.2020 passed in the writ petitions and remits the matters to the concerned Bench, for passing appropriate orders, on merits. These Review applications are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

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To

1.The Secretary,
The State of Tamil Nadu,
Commercial Taxes Department,
Secretariat, Chennai.

2.The Special Commissioner and
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

3.The Assistant Commissioner (CT) (FAC)
Anna Salai - II Assessment Circle,
No.621, Sire Mansion,
Anna Salai, Chennai - 600 006.

+1cc to M/s.P.Rajkumar, Advocate Sr.No.26910

+1cc to the Special Government Pleader Sr.No.27406

Review Application (W) Nos.12 to 17 of 2021

SR-II(CO)
RVM(09/06/2022)