BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.02.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) No.3922 of 2020
and
W.M.P.(MD)No.3312 of 2020

M/s.Maris Associates Pvt. Ltd.,
Rep. by its Executive Director,
M.V.Sivaraman,
D.No.168, North Cotton Road,
Tuticorin. .. Petitioner

Versus

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Commercial Taxes Department,
Fort St. George,
Chennai - 600 009.

2.The Assistant Commissioner (ST),
Tuticorin - 3 Assessment Circle,
Commercial Taxes Buildings,
Tuticorin. .. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to quash the proceeding in Assmt.No.592048/2003-04, dated 23.01.2020, on the file of the second respondent herein is wholly without jurisdiction, being contrary to the Provisions of the Tamil Nadu Tax on Entry of Goods Act, 2001 and further direct the first respondent for *de novo* consideration in the light of the judgment of the Hon'ble Supreme Court in the case of Jindal (Civil Appeal No.3453/2002).

For Petitioner	:	Mr.S.Karunakar
For Respondents	:	Mr.S.Shaji Bino Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

2.The Hon'ble Supreme Court in **State of Kerala and others Vs. Fr. William Fernandez etc. etc. [2018 (57) GSTR 6X (SC) : 2017 SCC Online SC 1291]**, has considered the issue and answered as follows:-

''58.The plain and literal construction when put to Section 3 read with Section 2(d) clearly means that goods entering into local area from any place outside the local area or outside the State are to be charged with entry tax. Foreign territory would be a place which is not only outside the local area but also outside the State. The writ petitioners are trying to introduce words of limitation in the definition clause. The interpretation which is sought to be put up is that both the phrases be read as:

(1) ''from any place outside that local area but within that State'';

(2) any place outside the State but within India.

59. It is well known rule of statutory interpretation that by process of interpretation the provision cannot be re-written nor any word can be introduced. The expression ''any place'' before the words ''outside the State'' is also indicative of wide extent. The words ''any place'' cannot be limited to a place within the territory of India when no such indication is discernible from the provisions of the Act.''

3.In view of the above, nothing survives for further adjudication in this Writ Petition. However, liberty is given to the petitioner to file an statutory appeal before the appellate authority and to work out the remedy available under Section 4 of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001. The petitioner is, therefore, directed to file such an appeal before the appellate authority within a period of 30 days from the date of receipt of a copy of this order. In case, such an appeal is filed by the petitioner within such time, the appellate authority shall dispose of the same in accordance with law after hearing the petitioner. It is made clear that the petitioner will have to make mandatory pre-deposit as is contemplated under the provisions of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 at the time of filing such an appeal.

4.This Writ Petition is dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government of Tamil Nadu,
   Commercial Taxes Department,
   Fort St. George,
   Chennai - 600 009.

2.The Assistant Commissioner (ST),
   Tuticorin - 3 Assessment Circle,
   Commercial Taxes Buildings,
   Tuticorin.

+1 CC to M/s.SPL GP (SR-6430[F] dated 15/02/2022)

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-6238[F] dated 15/02/2022)

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TR(25.02.2022) 3P 5C