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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.771 of 2017
and
W.M.P(MD).Nos.622 and 623 of 2017

Paramount Fabs,
Rep. by Its Managing Partner,
N.Hemalatha,
Trichy.

: Petitioner

Vs

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

2. The Assistant Commissioner(CT), (FAC),
Thiruvarambur Circle,
Commercial Tax Office Complex,
Mannarpuram, Trichy - 20.

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order and notice of Assessment and Demand issued by the 2nd Respondent in TIN No.33373562213/2014-15, dated 07.10.2016 and quash the same as illegal and consequently directing the

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2nd Respondent to conduct fresh Assessment as per the rectified return to be filed by the Petitioner for the period of December 2014 to March 2015 which comes in the Financial Year of 2014-2015.

For Petitioner : Mr.S.Karthick Subramanian
For R1 & R2 : Mr.M.Prakash
Additional Government Pleader

ORDER

The present writ petition has been filed in the nature of Certiorarified Mandamus, seeking to quash the proceedings in TIN No. 33373562213/2014-15, dated 07.10.2016, on the file of the second respondent.

2.The common question that arises for consideration in this Writ Petition relates to interpretation of the amendment made to Section 19(2)(v) and the insertion of the proviso to Section 19(2) vide amendment Act No.28 of 2013 and its subsequent omission vide amendment Act No.5 of 2015. The scope and ambit of the above amendments stand resolved by the Division Bench of this Court in W.A.No.1260 of 2017, dated 31.03.2022. An attempt was made to suggest that the State intends to file an appeal against the above order of the Division Bench, similar submission made has been considered and the following orders were passed in W.A.No.812 of 2019 dated 08.09.2022.

> *3. Though there is a request for adjournment stating that the State is proposing to file an appeal, we are inclined to dismiss this writ appeal*

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considering the fact that the issues are now covered against the State. However, we leave it open to the State to work out their remedy before the Hon'ble Supreme Court along with other cases where an order has been passed as referred to supra.

3. Following the same, the impugned order dated 07.10.2016 is set aside and the matter is remitted back to the Assessing Officer to redo the assessment in terms of the Division Bench judgments in W.A.No.1260 of 2017, dated 31.03.2022 and W.A.No.812 of 2019 dated 08.09.2022, within a period of four months, from the date of receipt of a copy of this order.

4.With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

29.09.2022

Index : Yes / No
Internet : Yes/ No
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MOHAMMED SHAFFIQ, J.

lr

W.P(MD).No.771 of 2017

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