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.24393 of 2019
and
W.M.P(MD).No.21019 of 2019

M/s.Seyad Cotton Mills Limited,
Represented by its Executive Director,
F.Seyad Rabbani,
Nanguneri.

: Petitioner

Vs

1. The State of Tamil Nadu,
Rep.By its Secretary to Government,
Commercial Taxes and Registration Department,
Fort.St.George, Chennai.

2. The State Tax Officer(State Tax),
Commercial Taxes Building,
Nanguneri.

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd Respondent in TIN 33695601656 / 2013-14 and quash the order dated 25/10/2019 passed therein and further direct the 2nd Respondent not to apply Sec.2(1) of the Tamilnadu Value Added Tax(Fifth Amendment) Act, 2013 to the petitioner herein in as much as the Petitioner is a manufacturer of Cotton yarn in the State of Tamilnadu in view of the Judicial precedent held in the case of M/s.Everest Industries Limited Vs.State of Tamilnadu reported in (2017) 100 VST 158)

For Petitioner : Mr.K.Srinivasan
For R1 & R2 : Mr.M.Prakash
Additional Government Pleader

ORDER

The present writ petition had been filed in the nature of Certiorarified Mandamus, challenging the order of the 2nd Respondent in TIN 33695601656 / 2013-14, dated 25.10.2019 and further direct the 2nd Respondent not to apply Sec.2(1) of the Tamilnadu Value Added Tax(Fifth Amendment) Act, 2013 to the petitioner herein, in as much as the Petitioner is a manufacturer of Cotton yarn in the State of Tamilnadu in view of the Judicial precedent held in the case of M/s.Everest Industries Limited Vs.State of Tamilnadu reported in (2017) 100 VST 158).

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 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 25.10.2019 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 petition is closed.

29.09.2022

Index : Yes / No
Internet : Yes/ No
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To
1. The Secretary to Government,
Commercial Taxes and Registration Department,
Fort.St.George, Chennai.

2. The State Tax Officer(State Tax),
Commercial Taxes Building,
Nanguneri.

https://www.mhc.tn.gov.in/judis

MOHAMMED SHAFFIQ, J.

lr

W.P(MD).No.24393 of 2019

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