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.11569 of 2017

1. TVS Srichakra Limited,
Represented by its Company President,
P.Srinivasavaradhan,
Madurai.

: Petitioner

Vs

The Assistant Commissioner Of Commercial Taxes,
West Veli Street Assesment Circle,
Commercial Taxes Building,
Dr.Thangaraj Road,
Madurai - 625 020.

: Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondent herein to complete the assessment of the Petitioner for the assessment year TNVAT 2013-14 and in particular on the issue of applicability of the Proviso inserted to Section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006 by Tamil nadu Act 28 of 2013 by applying the law declared by this Court in Everest industries Ltd. vs. State of Tamil Nadu and another, now reported as 100 VST 158.

For Petitioner : Mr.N.Inbarajan

For R1 : Mr.M.Prakash
Additional Government Pleader

ORDER

The present writ petition had been filed in the nature of Mandamus, directing the Respondent herein to complete the assessment of the Petitioner for the assessment year TNVAT 2013-14 and in particular on the issue of applicability of the Proviso inserted to Section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006 by Tamil Nadu Act 28 of 2013 by applying the law declared by this Court in Everest industries Ltd. vs. State of Tamil Nadu and another, now reported as 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. In view of the same, the Respondents shall take into account the above 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, while completing the assessment and pass orders in accordance with law.

4.With the above direction, this writ petition stands disposed of. No costs.

29.09.2022

Index : Yes / No
Internet : Yes/ No
lr

To
The Assistant Commissioner Of Commercial Taxes,
West Veli Street Assesment Circle,
Commercial Taxes Building,
Dr.Thangaraj Road, Madurai - 625 020.

MOHAMMED SHAFFIQ, J.

lr

W.P(MD).No.11569 of 2017

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