BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.A(MD)Nos.442, 452 & 453 of 2022
and
C.M.P.(MD)No.4250 of 2022
in
W.A.(MD)No.442 of 2022

M/s.Hari & Co.,
Rep. by its Managing Partner,
M.Annamalaiswamy ... Appellant in all W.As.

-Vs-

The Assistant Commissioner (ST)-2,
Tuticorin-2-(C) Assessment Circle,
Tuticorin. ... Respondent in W.A.(MD)No.442 of 2023

The Assistant Commissioner (ST) (FAC),
Tuticorin-III Assessment Circle,
Tuticorin. ... Respondent
in W.A.(MD)Nos.452 & 453 of 2023

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, praying this Court to set aside the common order dated 01.03.2022 made in W.P(MD)Nos.3796, 3800 and 3787 of 2022.

For Appellant : Mr.R.D.Ganesan

For Respondent : Mr.P.T.Thiraviyam, Government Advocate (in all W.As.)

COMMON JUDGMENT

[Judgment of the Court was delivered by ***R.SUBRAMANIAN, J.****]*

Challenge in these Writ Appeals is to the common order of the Writ Court dated 01.03.2022 made in W.P(MD)Nos.3796, 3800 and 3787 of 2022.

2.Though the Writ Petitions were filed, seeking a Writ of Certiorari to call for the records pertaining to the Demand Notices of the respondents dated 30.09.2019, 30.12.2020 and 30.12.2020 respectively, demanding entry tax from the petitioner, the issue relating to the payment of entry tax is no longer *res-integra.* It is covered by a judgment of the Division Bench of this Court in ***Sri Balakrishna Transport Vs. Commercial Tax Officer, Tambaram I Assessment Circle, Chennai***, reported in ***(2010) 28 VST 356 (Mad)***. The said judgment was also followed by the Division Bench of this Court to which one of us ***(R.SURBAMANIAN,J.***) is a party in W.A.(MD)No.332 of 2007.

3.In view of such settled position of law, where this Court held that the demand notice is not valid, since there is no specific provision for assessment of a person, who has not filed return, these Writ Appeals stand allowed, the order of the writ court is set aside and the impugned Demand Notices stand quashed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M.,J.] & [L.V.G.,J.]
10.04.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No

MYR

To

1.The Assistant Commissioner (ST)-2,
Tuticorin-2-(C) Assessment Circle,
Tuticorin.

2.The Assistant Commissioner (ST) (FAC),
Tuticorin-III Assessment Circle,
Tuticorin.

R.SUBRAMANIAN, J.

AND

L.VICTORIA GOWRI, J.

MYR

COMMON JUDGMENT MADE IN
W.A(MD)Nos.442, 452 & 453 of 2022

10.04.2023