THE HON'BLE SRI JUSTICE T. VINOD KUMAR
AND
THE HON'BLE SMT JUSTICE P.SREE SUDHA

TRC. No. 132 of 2003

ORDER:(*per the Hon'ble Sri Justice T.Vinod Kumar*)

This Tax Revision Case, at the behest of the petitioner-assessee, is filed against the order of the Sales Tax Appellate Tribunal (for short 'the Tribunal'), dt.28.06.2002 in TA.No.428 of 1998 preferred by the petitioner-assessee.

2. The assessment year involved is 1993-94 under the CST Act, 1956.

3. The brief facts of the case are that the petitioner claimed exemption in respect of turnover of Rs.4,52,550/-, representing export sales under Section 5(3) of the CST Act, 1956; and that the assessing authority had granted the benefit under Section 5(3) on a turn over of Rs.3,99,970/- by accepting the H-Forms filed by the petitioner-assessee.

4. It is the further case of the petitioner that the Deputy Commissioner in exercise of power under Section 20(2) of the APGST Act, 1957 read with Section 9(2) of the CST Act, 1956, found the said order of the assessing authority to be prejudicial to the interest of revenue inasmuch, the H-Forms filed did not contain full details and accordingly withdrew the exemption granted by the assessing authority.

5. Petitioner contends that aggrieved by the order of Deputy Commissioner, petitioner filed appeal before the Tribunal vide TA.No.429 of 1998; that the Tribunal after considering the contentions urged, found that though the petitioner-assessee had filed H-Forms covering the disputed turnover, a perusal of the H-Forms indicates that the said forms did not contain the number and date of agreement/purchase order placed by the foreign on the exporter, who in turn placed order on the appellant, for it to affect sales and claim the same to be penultimate sale resulting in export of such goods. Accordingly, the Tribunal dismissed the appeal filed by the petitioner; and that aggrieved by the said order of the Tribunal, the present Revision is filed.

6. Heard learned counsel appearing for the petitioner, Sri K.Raji Reddy, learned Special Standing Counsel for Commercial Taxes appearing for the respondent and perused the record.

7. Though the petitioner had raised questions of law under Sl.No.7(a) to (h) of Form-III for consideration of this Court as arising from the order of the Tribunal, the only question that arises or needs to be decided by this Court from and among the questions of law as raised by the petitioner is, whether in the absence of providing the details of pre-existing order from the foreign buyer, the supply of goods made by the petitioner to its purchaser can be considered as a penultimate sale in the course of export as falling under Section 5(3)

of the CST Act, 1956, even though the purchaser had issued/furnished H-Forms.

8. The provisions of Section 5(3) of CST Act, 1956, read with CST (Registration & Turnover) Rules, 1957, mandates for furnishing of H-Forms in order to claim exemption on the ground that a particular sale is a sale in the course of export. Further, one of the requirements of H-Forms is to provide/furnish the details of pre-existing order from foreign customer and under the heading 'Certificate-I' of the said Form, should indicate that further order placed on the petitioner is to comply with existing export order resulting in export of goods making the sale in the hands of the petitioner a last sale preceding export covered by provisions of Section 5(3) of the Act.

9. The Tribunal by analyzing the material on record had recorded a categorical finding of fact that though the petitioner had furnished H-Forms, the same did not contain/mention the details of the agreement or order and date of the purchase order placed by the foreign-buyer, for satisfaction of which the exporter placed the order on the petitioner.

10. The said finding recorded by the Tribunal, in our considered view, is a finding of fact and no question of law arises for consideration of this Court in the present Revision.

11. For the foregoing discussion, this Court is of the considered opinion that Revision is without any merit.

12. Accordingly, this Tax Revision Case is dismissed. No order as to costs.

13. Consequently, miscellaneous petitions pending, if any, shall stand closed in the light of this final order.

T. VINOD KUMAR, J

P.SREE SUDHA, J

02nd January, 2023

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THE HON'BLE SRI JUSTICE T. VINOD KUMAR

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TREVC. No. 132 of 2003
(*per the Hon'ble Sri Justice T.Vinod Kumar*)

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