IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.P.Nos.34723 & 34724 of 2006
and
M.P.Nos. 1 & 1 of 2006

Ambur Co-operative Sugar Mills Limited,
Rep. by its Special Officer,
Xavier S.F.Fernando,
Vadapudupet,
Vellore District. .. Petitioner in both WPs

vs

1.The Commercial Tax Officer,
Ambur Assessment Circle,
95/3 M.C.Road, Ambur,
Vellore District.

2.The Appellate Assistant Commissioner (CT),
Vellore.

3.Tamil Nadu Sales Tax Appellate Tribunal (Main Branch)
Rep. by its Secretary,
City Civil Court Buildings,
High Court Complex,
Chennai – 600 104. .. Respondents in both WPs

Prayer in W.P.No.34723 of 2006 : Petition filed under Article 226 of the Constitution of India to call for the records on the files of the Sales Tax Appellate Tribunal, the third respondent herein, in T.A.No.596 of 2001 dated 10.07.2006 and issue a writ of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India, 1950, quashing the same, in so far as relating to the tax of Rs.3,56,011/- on a turnover of Rs.26,37,115/-.

Prayer in W.P.No.34724 of 2006 : Petition filed under Article 226 of the Constitution of India to call for the records on the files of the Sales Tax Appellate Tribunal, the third respondent herein, in T.A.No.587 of 2001 dated 10.07.2006 and issue a writ of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India, 1950, quashing the same, in so far as relating to the tax of Rs.8,52,699/- on a turnover of Rs.63,16,294/-.

For Petitioner	:	Mr.N.Prasad (in both WPs)
For Respondents	:	Mr.Haja Nazirudeen, Additional Advocate General assisted by Mr.V.Prashanth Kiran Government Advocate (in both WPs)

COMMON ORDER

(Order of the Court was made by Dr. ANITA SUMANTH.,J)

In these two writ petitions, the petitioner - Ambur Coopertaive Sugar Mills challenges order of the Tribunal dated 10.07.2006 passed under the provisions of the Tamil Nadu General Sales Tax Act, 1959 ('Act').

2. The issue relates to whether the transport charges payable upto 40 kms for transport of cane should be included / excluded from the purview of Statutory Minimum Price (SMP) for the purpose of computing purchase price under Section 6A of the Act.

3. The above issue had come up for consideration in the matter of *Kallakurichi Co-operative Sugar Mills Limited vs State of Tamil Nadu* [1985 (60) STC 113]. Therein to, the assessee had sought reduction of price paid for transportation of cane from purchase consideration and, the issue came to be decided adverse to the assessee, as follows:-

> *"6. Thus on a careful consideration of the facts and circumstances of these cases, we are of the view that the petitioners cannot claim to exclude the transport charges from their assessable turnover. We do not therefore consider it necessary to advert to the decisions relied on by the petitioners. The authorities below were therefore quite correct in their conclusions and no interference is called for. Consequently, these tax revision cases are dismissed. There will be, however, no order as to costs."*

4. The decision in *Kallakurichi Co-operative Sugar Mills Ltd.,* has been affirmed by the Full Bench of this Court in the case of *Chengalvarayan Co-operative Sugar Mills Ltd v State of Tamil Nadu* [(1997) 105 STC 497] and the ratio thereof has been subsequently followed in the case of *Sakthi Sugars Limited v State of Tamil Nadu, rep. by the Deputy Commissioner, Coimbatore* decided on 29.01.2020 in Tax Case No. 5 of 2020.

5. With this, we find no merit in the present challenge and these writ petitions are dismissed. No costs. Connected miscellaneous petitions are closed.

[A.S.M., J] [G.A.M., J]
02.09.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH,J.
and
G. ARUL MURUGAN.,J

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