IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

CORAM :

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.Nos.15627 and 15628 of 2015

Sunitha Printers,
Represented by its Proprietor
M.Santhanam,
No.2, Rajarathinam Street,
Coimbatore. .. Petitioner in both WPs.

-vs-

The Tamil Nadu Sales Tax Appellate Tribunal (AB),
Represented by its Secretary,
Dr.Balasundaram Road,
Coimbatore-641 018. .. Respondent in both WPs.

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue Writ of Certiorarified Mandamus to call for the records on the file of the respondent herein in C.T.R.A.Nos.01/2014 and 02/2024 dated 27.01.2015 and quash the same and directing the respondent herein to consider and pass orders on the review application in

C.T.R.A.Nos.01/2014 and 02/2024 in accordance with the provisions of the Tamil Nadu General Sales Tax Act, 1959 and the rules thereunder.

For the Petitioner in both WPs.	:	Ms.P.Vishnu Priya
For the Respondent in both WPs.	:	Mr.G.Nanmaran Spl.Govt.Pleader

* * * * *

COMMON ORDER

(Order of the Court was made by C.Saravanan, J.)

By this common order, both these writ petitions are being disposed of.

2. In both the writ petitions, challenge is to the impugned orders dated 27.01.2015 passed by the Tamil Nadu Sales Tax Appellate Tribunal dismissing the petitioner's review applications in C.T.R.A.Nos. 1/2014 and 2/2014 against the common order of the Division Bench of the Tribunal dated 20.09.2013 passed in CTA Nos.71/97 and 39/00 relating to the Assessment Year 1994-95 and 1997-98 respectively.

3. The learned counsel for the petitioner submits that the petitioner's turnover for the respective assessment years is more than one lakh rupees and therefore, the applications to review has to be considered only by a Division Bench of the Tribunal as per Section 30(3)(a)(iv) of the Tamil Nadu General Sales Tax Act, 1959. In this connection, the learned counsel for the petitioner has also drawn our attention to the decision of a Division Bench of this Court dated 31.07.2015 in Tax Case Revision No.49 of 2015, in the case of ***Palani Andavar Mills Ltd. vs. The State of Tamil Nadu, rep. by The Commercial Tax Officer, Udumalpet (South) Circle***. Paragraphs 7 and 8 of the said order read as under:

> *"7. A cursory reading of the aforesaid Section clearly bears the single member from exercising such power of review on both the grounds viz. (i) the turnover admittedly exceeds one lakh rupees and (ii) a single member cannot review an order passed by two member Bench.*
>
> *8. In such view of the matter, we have no hesitation in setting aside the impugned order. Accordingly, the impugned order is set aside and the matter is remanded to the Tribunal*

for passing appropriate orders on merits by a competent Bench of the Tribunal. This tax case revision is allowed. There shall be no order as to the costs."

4. In view of the above being a settled position of law, we are inclined to set aside the impugned orders dated 27.01.2015 dismissing the applications for review and remit the cases back to the Tamil Nadu Sales Tax Appellate Tribunal to pass fresh orders under Section 36 of the Tamil Nadu General Sales Tax Act, 1959. Since the dispute pertains to Assessment Years 1994-95 and 1997-98, the Tribunal may endeavour to pass orders on merits as expeditiously as possible. There is no order as to costs.

(R.S.K., J.) (C.S.N., J.)
11.09.2024

Index : Yes/No
NC : Yes/No

sra

To

The Tamil Nadu Sales Tax Appellate Tribunal (AB),
Represented by its Secretary,
Dr.Balasundaram Road, Coimbatore-641 018.

R.SURESH KUMAR, J.
AND
C.SARAVANAN,J.

(sra)

W.P.Nos.15627 and 15628 of 2015

11.09.2024