IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.7913 of 2006

M/s.S.K.Decorators
rep. By its Partner Su.Sirajdeen : Petitioner

versus

1.The State of Tamil Nadu,
rep. By its Secretary to Government,
Department of Commercial Taxes
Religious Endowments
Fort St.George, Chennai 9

2.The Deputy Commercial Tax Officer,
Oppanakkara Street Circle,
Coimbatore : Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring that Sl.No.8 of part G to the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, as introduced by the Tamil Nadu Act 22 of 2002 as it stood between 27.3.2002 and 30.6.2002 as ab intio void and ultra vires Articles 14, 265, 286, 301, 304(a) of the Constitution of India.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.Venkateswaran,
Special Government Pleader (Taxes)

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Ms.R.Hemalatha, learned counsel for the petitioner and Mr.Venkateswaran, learned Special Government Pleader (Taxes) for the respondents.

2. The learned counsel for the petitioner as well as learned counsel for the respondents are *ad idem* that the petitioner would be governed by the judgment delivered by the Apex Court in the case of *M/s.Sony India Pvt. Ltd. vs. Commercial Tax Officer and Another, Civil Appeal Nos.1591 and 1592 of 2009, dated 05.03.2009*.

The Apex Court has observed as under:

> *"We do not wish to comment about the above contentions. Suffice it to state that these contentions would require adjudication, which has not taken place in the present case. Against the assessment orders, the assessee chose to move the Tribunal without exhausting statutory remedy under the Act. In our view, looking to the contentions advanced by the assessee, they ought to have proceeded to file appeals for each assessment year before the First Appellate Authority under the Act which they have failed to do. However, since an important question of law arises for determination and since the liability is likely to recur in future, we direct the appellant-assessee herein to prefer statutory appeal(s) within a period of four weeks. It is made clear that the First Appellate Authority will decide the said appeal(s) within a period of six months, uninfluenced by the observations made by the Tribunal as well as by the High Court in*

the impugned judgment. We express no opinion on the merits of the case. Whatever is stated hereinabove is only in the support of our order remitting the matter to the First Appellate Authority and that Authority shall not be bound by any of our observations mentioned hereinabove. The First Appellate Authority shall decide the matter on merits and it shall condone the delay, if any, in filing the appeals."

3. In view of the above, we follow the same course. The writ petition is disposed of in the above terms. There shall be no order as to costs. Consequently, WPMP No.8801 of 2006 is closed.

(S.V.G., CJ.) **(D.B.C., J.)**
12.03.2024

Index : Yes/No
Neutral Citation : Yes/No
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To
1.The Secretary to Government,
Department of Commercial Taxes Religious Endowments
Fort St.George, Chennai 9

2.The Deputy Commercial Tax Officer, Oppanakkara Street Circle, Coimbatore

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(tar)

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