IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

WP Nos.3138, 3139 of 2012; 24557 of 2014

Sharda Motor Industries Ltd
Rep. by its Authorized Signatory K.K.Sharma : Petitioner in all writ petitions

versus

The Assistant Commissioner (CT)
Commercial Tax Office Sriperumbudur
Assessment Circle Varadarajapuram-602 103
Kancheepuram District. : Respondent in all writ petitions

Prayer: WP No.3138 of 2012 filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for and quash the proceedings of respondent herein in TNGST.1661341/2005-06 dated 14.11.2011 imposing additional sales tax of an amount of Rs.9,61,524/-.

Prayer: WP No.3139 of 2012 filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the files of respondent herein in TNGST.1661341/2005-06 dated 31.01.2012 quashing the same while directing the Respondent herein to rectify the assessment in TNGST.1661341/2005-06 dated 14.11.2011 and delete the demand for additional sales tax of Rs.9,61,524/-

Prayer: WP No.24557 of 2014 filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the files of respondent herein in TNGST 1661341/ 2006-2007 dated 30.6.2014 quashing the same.

For Petitioner : Mr.N.Prasad

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

COMMON ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.N.Prasad, learned counsel for the petitioner and Mr.M.Venkateswaran, learned Special Government Pleader for the respondent.

2. The petitioner assails the revised proceedings of the Assistant Commissioner (CT) denying the benefit of exemption of additional sales tax to it.

3. The issue, it appears, is no longer *res integra* in view of the judgment of a Division Bench of this Court in the case of *HSI Automotives Limited, Chennai Vs. State of Tamil Nadu, rep.by the Commercial Tax Officer [TAX CASE 2016(6) VST OL 107]*.

4. Definitions of the terms *'turn-over', 'total turn-over' and 'taxable turn-over'* were discussed in detail by the Division Bench in the said case. It has been held that the provisions of the Tamil Nadu General Sales Tax Act would apply in entirety, in relation to the additional sales tax payable under the 1970 Act, as they apply in relation to the tax payable under the 1959 Act. Definition of the expression *'taxable turnover'* in the Tamil Nadu Additional Sales Tax Act, 1970,

will have to be construed as same one available in Section 2(p) of the Tamil Nadu General Sales Tax Act, 1959.

5. The exempted sales effected by the petitioner to M/s.Hundai Motors India Limited, as part of the 'taxable turnover' of the petitioner for the purposes of Tamil Nadu Additional Sales Tax Act, 1970 is an error on the part of the authority concerned.

6. In light of that, the impugned revised assessment is quashed and set aside.

7. The writ petitions are accordingly allowed. There shall be no order as to costs. Consequently, MP Nos.1 of 2012 and 1 of 2014 are closed.

(S.V.G., CJ.) **(J.S.N.P., J.)**
10.04.2024

Index : Yes/No
Neutral Citation : Yes/No
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To
The Assistant Commissioner (CT)
Commercial Tax Office Sriperumbudur
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THE HON'BLE CHIEF JUSTICE

AND

J.SATHYA NARAYANA PRASAD, J.

(tar)

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