IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

T.C.No.68 of 2024

The State of Tamil Nadu
Rep. by the Joint Commissioner (CT)
Erode Division (Erstwhile Salem Division)
Erode. .. Petitioner

Vs.

Tvl.G.R.Granites
No.1104, EVN Road, Erode. .. Respondent

Prayer: Petition filed under Section 38 of the TNGST Act, 1959, to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Coimbatore in CTSA No.12/2012 dated 15.02.2024.

For the Petitioner : Mr.T.N.C.Kaushik
Additional Government Pleader

ORDER

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

This tax case revision has been directed against the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Coimbatore in CTSA No.12 of 2012.

2. By the impugned order, the Appellate Tribunal has

dismissed the appeal filed by the appellant Commercial Tax Department with the following observations:-

> *5) Heard both sides and perused the connected records. The points raised*
> *for consideration in the present appeal filed are that:*
> *a) as to whether the exemption claimed on pre-export sales and direct export sales disallowed by the Assessing Officer,*
> *and the First Appellate Authority allowed the appeal in fact and law is correct or not?*
>
> *6) Admittedly, during the course of assessment, the defect pointed out to deny the pre export sales and direct export sales are not in order. The Honourable High Court of Madras in the case of Ill Department (D) (P) La., Vs. Deputy Commercial Tax Officer, lee House, Chennai held that produce the deals in support of actual export and actual shipment of goods and to the Assessing Officer to consider the same for the purpose of exemption.*
>
> *In para 8 of the writ Appeal the court held, that accordingly, the writ petition is disposed of with liberty to the petitioner to satisfy the Assessing Officer by producing the Invoice No. and date of export, the name of the ship and part from which it is exported, the date of departure of*

the ship and copy of the bill of lading in support of actual export and actual shipment of goods. In that event, it is open to the Assessing Officer to consider the same for the purpose of exemption.

7) The Tribunal examined the application of the above said decision relied on by the Respondent, the Tribunal not inclined to accept the prayer of the revenue to apply the above decision in this present case because different eventualities and the factual circumstances will have to be considered on a case to case basis to apply any judgement. It is well settled that the Respondent furnished all the records and details required to file before the Assessing Officer as decided in the Writ Appeal discussed in para 5 above, the Assessing Officer failed to examine the issue but decided to deny the claim of exemption on pre export sales and direct export sales.

8) For the above reasons and findings, the Tribunal record the concurrence to this view and the Tribunal unable to support the impugned order issued by the assessing authority, as they are totally bereft of any reasons but to approve the orders of first appellate authority. The Tribunal find no reasons to interfere in the orders issued by the first appellate authority and it is ordered accordingly.

In the result, the appeal filed by the State in CTSA No.12 of 2012 stands "DISMISSED"."

3. The Appellate Tribunal has accepted the order of the Appellate Assistant Commissioner (CT), Erode made in AP.No.4/2007 dated 20.07.2007 filed by the respondent assessee.

4. Reading of the impugned order indicates that the Appellate Tribunal has considered all the material facts and has come to the conclusion that indeed, there was export of consignment by the respondent assessee. As such, no question of law arises for consideration. Hence, this tax case revision is liable to be dismissed and it is accordingly dismissed. There shall be no order as to costs.

(R.S.K., J.) (C.S.N, J)
02.12.2024

Neutral Citation:Yes/No

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

(drm)

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