IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No.1550 of 2022
&
C.M.P.No.10219 of 2022

The Assistant Commissioner (ST)(FAC)
Tambaram Assessment Circle
Chennai 45. .. Appellant

Vs.

S.R.Raja Agencies
(now known as S.R.Raja Cements)
Rep. by its Proprietor
No.34, Ramakrishna Street
West Tambaram
Chennai – 600 045. .. Respondent

Prayer : Appeal under Clause 15 of Letters Patent against the order dated 25.06.2021 passed in W.P.No.20172 of 2020.

For Appellant : Mr.Haja Nazirudeen
Additional Advocate General

Assisted by
Mr.TNC Kaushik
Additional Government Pleader

For Respondent : No appearance

JUDGMENT
(Judgment of the Court was delivered
by Mohammed Shaffiq,J)

The writ appeal is filed challenging the order of the learned Single Judge insofar as it finds that levy of additional sales tax in the hands of the respondent who is an authorised distributor / agent of M/s.Zuari Cement (Zuari) is unsustainable, in view of the fact that additional sales tax had been discharged by its principal, viz., M/s. Zuari Cements including on the turnover of sales of the respondent herein, in terms of Explanation 1 to Section 2(1)(aa) of Tamil Nadu Additional Sales Tax Act, 1970. For the sake of clarity it may be relevant to extract Section 2(1)(aa) of Tamil Nadu Additional Sales Tax Act, 1970, which relied upon by the learned Judge while finding that levy of Additional Sales Tax on the respondent herein cannot be sustained, reads as under:

"Sec. 2(1)(aa) The tax Payable under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) (hereafter in this section

referred to as the said Act), shall, in the case of a dealer including the principal selling or buying goods through agents taxable turnover [for a year exceeds ten crores of rupees], be increased by an additional tax, calculated at the following rates, namely:

		RATE OF TAX
[(i)	Where the taxable turnover exceeds ten crores of rupees but does not exceed twenty-five crores of rupees.	1 per cent of the taxable turnover
(i-a)	Where the taxable turnover exceeds twenty-five crores of rupees but does not exceed fifty crores of rupees.	1.5 per cent of the taxable turnover]
(ii)	Where the taxable turnover exceeds fifty crores of rupees but does not exceed one hundred crores of rupees.	2 per cent of the taxable turnover
(iii)	Where the taxable turnover exceeds one hundred crores of rupees but does not exceed three hundred crores of rupees	2.5 per cent of the taxable turnover
(iv)	Where the taxable turnover exceeds three hundred crores of rupees	3 per cent of the taxable turnover

Explanation I. - "?Taxable Turnover?" for the purpose of this clause in respect of a principal selling or buying goods [....] through agents shall be the aggregate taxable turnover of all his agents relating to the sale or purchase of the goods of such principal within the State.

Explanation IV. - 'Taxable turnover' for the purpose of this clause does not include the turnover of resale, taxable under Section 3-H of the said Act."

2. The learned Additional Advocate General would submit that the order of the learned Single Judge insofar as it finds that the principal, viz., M/s. Zuari Cements (Zuari), had discharged the additional sales tax on the turn over of sales effected by the respondent, in its capacity as agents of M/s.Zuari Cements (Zuari) in its entirety may not be factually correct and requires verification.

3. We find that the above submission is no reason to interfere with the order of the learned Single Judge. However, if for any reason, the appellant finds that the additional sales tax on the turn over of sales effected by the respondent in its capacity as agent of M/s.Zuari Cements(Zuari) has not been remitted in full, in other words, something is left to be paid by the principal viz., M/s.Zuari Cements(Zuari) in terms of Section 2(1)(aa) of the Tamil Nadu Additional Sales Tax Act, it is open to the revenue to take appropriate action in accordance with law.

4. The appeal is disposed of. There shall be no order as to costs. Consequently, the interim application also stands disposed of.

(K.R.SHRIRAM, CJ) (MOHAMMED SHAFFIQ,J.)
18.02.2025

Index : Yes/No
NC : Yes/No
kpl

THE HON'BLE CHIEF JUSTICE
AND
MOHAMMED SHAFFIQ,J.

(kpl)

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