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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.7740 of 2010

and

M.P(MD)No.1 of 2010

Tvl.Unique Traders,
Represented by its Partner,
Thiru T.Muralidharan,
No.17/2, Perali Road,
Virudhunagar.

... Petitioner

Vs.

Commercial Tax Officer-I,
Commercial Taxes Buildings,
Madurai Road,
Virudhunagar.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the final assessment order passed by the respondent in his assessment proceeding in C.S.T 503600/04-05 dated 31.05.2010 received by the petitioner on 02.06.2010 and quash the same.

For Petitioner : Mr.A.S.Mujibur Rahman
For Respondent : Mr.Murugan
Additional Government Pleader

ORDER

The present writ petition has been filed for issuance of a Writ of Certiorari, to call for the records relating to the final assessment order passed by the respondent in his assessment proceeding in C.S.T 503600/04-05 dated 31.05.2010 received by the petitioner on 02.06.2010 and quash the same.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3.The point involved in this writ petition is whether the printed materials supplied to a customer would amount to outright sale or works contract. This Court has already taken a view that such nature of transaction would amount to works contract and not outright sale which would attract tax.

4.Learned counsel for the petitioner relied on a judgment of the Division Bench of this Court in Tax Case(A)Nos.722 to 724 of 2005 dated 04.03.2010(Tvl.Noble Press, Trichy, vs. The Joint Commissioner III, (SMR) of Commercial Taxes, Chepauk, Chennai-5), wherein, the Division Bench has held as follows:-



''2.The question raised herein is whether printing of labels could be considered as 'sales' or 'works contract'? In TC.(R) No.904 of 2006 filed by the State, an identical question was raised, in which a Division Bench of this Court, by order dated 3.2.2010, relying on the decision of the Apex Court in State of Tamil Nadu vs. Anandam Viswanathan reported in (1989) 73 STC 1 and also the Division Bench judgment of this Court in the case of State of Tamil Nadu vs. Gunesundari Modern Art Printers reported in 97 STC 489 and in the case of State of Tamil Nadu vs. Premier Litho Works and another reported in (2009) 26 VST 205, has held that when materials are printed and supplied to specified customers according to their specifications, it would amount to works contract only and dismissed the tax case revision.

3.Following the same these tax case appeals filed by the assessee are allowed. No costs.''

5.In yet another Division Bench judgment of this Court in State of Tamil Nadu, rep by the Deputy Commissioner (CT), Trichy, vs. Tvl.Ananda Press, Trichy (Tax Case (R) No.2322 of 2008 dated 04.02.2010), it has been held as follows:-

''The above tax case revision raises a question as to whether the job undertaken by the petitioner to print NRI accounts, acknowledgment letters, loan application, letter pad, various forms, invitations and other materials etc, for specific customers which are not saleable in open market, would be considered as works contract or sale. The raw materials for execution of the work of printing are purchased by the dealer from outside and those commodities suffered tax.

2.On the above facts and circumstances, we have held in T.C.No.1770 of 2008 dated 03.02.2010 that the raw materials are purchased from the open market which suffered tax and they are used in the printed materials and those printed materials are supplied only to the specific customers who have placed orders according to their specifications, which would be works contract only. That order was passed following the judgment of the Apex Court in the case of State of Tamil Nadu vs. Ananda, Viswanathan reported in [1989] 73 STC 1 and also the Division Bench judgment of this Court in the case of State of Tamil Nadu vs. Gunesundari Modern Art Printers reported in 97 STC 489 and in the case of State of Tamil Nadu vs. Premier Litho Works and another reported in (2009) 26 VST 205, has held that when materials are printed and supplied to specified customers according to their specifications, it would amount to works contract only and dismissed the tax case revision.

3.Following the same, these tax case appeals filed by the assessee are allowed.''



6.The issue involved in this writ petition is no longer res integra in view of the above judgments pronounced by this Court. Accordingly, the impugned order in C.S.T 503600/04-05, dated 31.05.2010, is set aside and this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(T&P)

Sub Assistant Registrar(CS-I)

To

Commercial Tax Officer-I,
Commercial Taxes Buildings,
Madurai Road,
Virudhunagar.

W.P(MD)No.7740 of 2010
31.08.2018

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