IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2015

Coram

The Hon'ble Mr. Justice T.RAJA

W.P.No.12493 of 2015
and
M.P.No.1 of 2015

M/s.All India Metal and Alloys
rep. By its Proprietor .. Petitioner

Vs.

The Assistant Commissioner (CT),
Broadway Assessment Circle,
Chennai. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the impugned proceedings of the respondent in TIN/33880061057/2014-2015 and quash the impugned order dated 13.02.2015 as passed contrary to the provisions of the TNVAT Act and also without authority of law and also opposed to the law laid down by the Hon'ble Supreme Court in the case of the State of Maharashtra Vs. Suresh Trading Company reported in 109 STC 439 and the Hon'ble Madras High Court in the case of M/s.Jinsasan Distributors Vs. Commercial Tax Officer (CT), Chintadripet Assessment Circle reported in 59 VST 256, in the case of M/s.Althaf Shoes (P) Limited reported in 50 VST 179, in the case of M/s.Sri Vinayaga Agencies reported in 60 VST 283, in the case of Aassan Global Trade in W.P.Nos.25996 to 25998 of 2014 and also in the case of M/s.Infiniti Wholesale Limited in W.P.No.9265 of 2014.

For Petitioner .. Mr.P.Rajkumar

For Respondent .. Mr.Manohar Sundaram,
Addl. Govt. Pleader (T)

ORDER

This writ petition is directed against the impugned order passed by the Assistant Commissioner (CT), Broadway Assessment Circle on the ground that the respondent had wrongly chosen to pass the impugned order reversing the input tax credit even before the closure of the assessment year 2014-2015 as if the impugned assessment order is original assessment order passed under the provisions of the Tamil Nadu Value Added Tax Act and that the respondent has no authority to reverse the input tax credit for the period from April, 2014 to October, 2014.

2.Mr.Manohar Sundaram, learned Additional Government Pleader (Tax) takes notice for the respondent.

3.The petitioner is the registered dealer in Broadway assessment circle. On scrutiny of the monthly returns filed by them, the respondent Department noticed that the dealer claimed huge input tax credit. As a result, to verify the genuineness of the input tax credit claim, the dealer was requested to produce the following documents in person:

(1) Purchase bills
(2) Purchase register
(3) Bank statement
(4) Cheque paid details
(5) Proof of movement of goods for purchase/sales
(6) Stock register
(7) Day book
(8) Proof for mode of payment to the goods movement etc.,
(9) ITC adjustment register
(10) Form JJ/delivery note etc.,

4.No doubt, it was the claim of the petitioner that at the time of purchase, they filed returns. Therefore, they claimed input tax credit. But even before the closure of assessment year 2014-2015, the assessing authority has passed the original assessment order and the notice was served on the petitioner only on 07.04.2015. In identical circumstances, this Court, while considering the almost similar issue, has come to the conclusion that the respondent cannot deny the benefit of input tax credit to the petitioner therein as it is contrary to the law laid down by the Apex Court in State of Maharashtra Vs. Suresh Trading Company reported in 109 STC 439. Therefore, following the ratio laid down by the Apex Court and also by this Court in W.P.Nos.11404 to 11407 of 2015 dated 20.04.2015, this Court is left with no other option except to direct the respondent not to deny the benefit of input tax credit to the petitioner as it is contrary to the law laid down by the Apex Court in the aforementioned case. As the impugned order is contrary to the above ratio, the same is set aside.

5.The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/true copy/

Sub-Assistant Registrar

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To

The Assistant Commissioner (CT),
Broadway Assessment Circle,
Chennai.

+1 CC to Mr.P.Rajkumar Advocate. SR.NO. 23896
+1 CC to the Special Govt Pleader Taxes. SR.NO. 23616

CO-RSJ
JD 19/05/2015

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