IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2015

CORAM :

THE HONOURABLE Mr.JUSTICE N.KIRUBAKARAN

W.P.No.31110 of 2015

and

M.P.Nos.1 & 2 of 2015

M/s.Jai Balaji Timber Mart,
Rep. by its Partner - M.Mani,
Velur Road, Valaraigate,
Tiruchengode - 637 211,
Namakkal District. ... Petitioner

Vs.

1. The State of Tamil Nadu,
   Represented by the Secretary,
   Commercial Taxes and Registration Department,
   Fort St.George, Chennai-9.

2. The Commercial Tax Officer,
   Tiruchengode (Town),
   Tiruchengode,
   Namakkal District. ... Respondents

Prayer : Writ petition has been filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records of the 2nd respondent in his impugned proceedings made in TIN:33823183326/2008-09 dated 28.07.2015 insofar as it rejects the claim of ITC u/s 19(11) of the TNVAT Act, 2006 is concerned and to quash the same.

For Petitioner : M/s.R.Hemalatha

For Respondents : Mr.S.Kanmani Annalai,
AGP (T)



ORDER

The petitioner is a dealer in Everest Asbestos, Rite Roof, Timber, Tiles, M.S.Pipes, Plywoods, Doors & Hardwares and assessee on the files of the Commercial Tax Officer, Tiruchengode (2nd respondent herein). The petitioner was deemed assessee for the years 2008-09, accepting the monthly Form-K returns filed under TNVAT Act, 2006 on a total and taxable turnover of Rs.26,07,074.00 at 0.5% under Section 3(4) of the Act. Subsequently, the 2nd respondent has issued a Notice dated 02.12.2014 stating that the petitioner on 27.01.2010 had filed revised monthly returns in Form-I declaring a total and taxable turnover of Rs.26,07,074.00 with VAT due of Rs.2,46,086/- in the returns filed in Form-I and claimed ITC of Rs.2,47,382/- balance and adjusting that amount and the tax already paid under Section 3 (4) of the Act and paid the balance of tax of Rs.4,629/-. Further, it was held by the 2nd respondent that the petitioner is not entitled to claim the said ITC as the claim was barred by limitation, as per Section 19(11) of the Act. Subsequently, the 2nd respondent has passed the impugned order dated 28.07.2015, confirming the reversal of ITC of the petitioner for the year 2008-09. Aggrieved over the same, the present writ petition has been filed by the petitioner.

2. Heard the learned counsel for the petitioner as well as the learned Additional Government Please (T) and perused the records.

3. The vires of Section 19(11) of the TNVAT Act has been upheld by this Court in the case of USA Agencies Vs. The Commercial Tax Officer, reported in 2013(5) CTC 63. The said decision has also been followed by this Court in W.P.Nos.13499 to 13501 of 2015, vide order dated 30.04.2015.Once the vires of Section 19(11) of the Act has been upheld, the order passed by the 2nd respondent under the said Section cannot be challenged.

4. Hence, the present writ petition fails and the same is dismissed accordingly. Consequently, connected Miscellaneous Petitions are closed. No costs.

Ssv

Sd/-
Assistant Registrar (Judicial)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary,
   State of Tamil Nadu,
   Commercial Taxes and
   Registration Department,
   Fort St.George, Chennai-9.

2. The Commercial Tax Officer,
   Tiruchengode (Town),
   Tiruchengode, Namakkal District.

+1 C.C. To M/s.R.Hemalatha, Advocate in SR.NO.53427

+1 C.C. To Special Government Pleader(Taxes), in SR.NO.53524

W.P.No.31110 of 2015
and
M.P.Nos.1 & 2 of 2015

RSK(CO)
sd : 19/10/2015