IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.7202 of 2015
and
M.P.No.1 of 2015

Ellak Chem Industries (P) Ltd.,
represented by its Authorised Signatory
K.G.Jothis Kumar,
Manjavadi Village, Pappireddi Taluk,
Dharmapuri District. ... Petitioner

vs.

The Commercial Tax Officer,
Harur Assessment Circle,
Harur. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in TIN.33563341288/2009-2010 dated 12.12.2014 and quash the same insofar as the issue related to reversal of input tax credit at 3% amounting to Rs.42,080/- on the purchase value of inputs lost (chemicals) during the process of manufacture of end products is concerned and further direct the respondent to pass orders afresh in accordance with the direction issued by this Court in W.P.No.34410/2014 dated 23.12.2014 (Tvl.Sivasakthi Exports vs. Commercial Tax Officer, Palladam Assessment Circle, Palladam and two others).

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.Kanmani Annamalai
Additional Government Pleader (Taxes)

O R D E R

Petitioner has filed this Writ Petition seeking to quash the proceedings of the respondent in TIN.33563341288/2009-2010 dated 12.12.2014 insofar as the issue related to reversal of input tax credit at 3% amounting to Rs.42,080/- on the purchase value of inputs lost (chemicals) during the process of manufacture of end products is concerned and to direct respondent to pass orders afresh in accordance with the direction issued by this Court in W.P.No.34410 of 2014 dated 23.12.2014.

2. Heard learned counsel for petitioner and learned Additional

Government Pleader (Taxes).

3. Learned counsel for petitioner submits that by the proceedings dated 12.12.2014, the respondent stated that the petitioner has availed Input Tax Credit on the purchase of inputs destroyed and lost in the process of manufacture, which is contravention of Section 19(9)(iii) of the Tamil Nadu Value Added Tax Act, 2006 and hence, the loss of inputs in the process of manufacture is estimated at 3% and the Input Tax Credit is to be reversed. Learned counsel further submits that the issue in question has been considered by this Court in W.P.No.34410 of 2014 on 23.12.2014 and the relevant paragraph is extracted below:

> "4. It is held that the Assessing Authorities are not justified in adopting uniform percentage as invisible loss and calling upon the dealer to reverse the input tax credit availed to that extent. Consequently, all notices issued to the petitioner for reopening and all consequential order passed reversing the input tax credit to the extent of either 4% or 5% or on adhoc percentage stands set aside. However, liberty is granted to the concerned Assessing Officer to issue appropriate show cause notices to the petitioners clearly setting out under what circumstances they propose to revise or call upon the petitioner to reverse refund sanctioned and after inviting objections proceed in accordance with law."

4. Learned Additional Government Pleader (Taxes) submits that several issues are involved in this case and only the issue referred above is covered in this Writ Petition and for the rest of the issues, the petitioner may be directed to work out its remedy before the appropriate authority.

6. Taking note of the submissions made on either side and the fact that out of several issues raised by petitioner, only one issue is covered, this Court allows this Writ Petition to that extent alone. With regard to the other issues, it is open to the petitioner to canvass the same before the statutory appellate authority. No costs. Consequently, connected miscellaneous petition is closed.

Registry is directed to return the original order to the learned counsel for petitioner as the petitioner has filed a copy of the same in the typed set of papers.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

The Commercial Tax Officer,
Harur Assessment Circle,
Harur.

1 cc to Mr.P.Rajavelu ,Advocate, SR.No.14475
1 cc to Mr.R.Senniappan ,Advocate, SR.No.14239
1 cc to Special Government Pleader,Sr.No14451

W.P.No.7202 of 2015

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