IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.15535 to 15538 of 2016
&
M.P.Nos.13509 to 13516 of 2016

M/s.Suryadev Alloys & Power Private Limited
represented by its Director
Mr.Pankaj Agarwal
Survey No.298/2, Gummidipoondi Taluk
New Gummidipoondi - 601 201 .. Petitioner in all W.Ps

Vs.

The Commercial Tax Officer
Gummidipoondi Assessment Circle
38, GNT Road, Second Floor
Gummidipoondi .. Respondent in all W.Ps

Prayer: This Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari filed mandamus to call for the records of the respondent in his impugned proceedings in TIN:33921702760/2010-11, TIN:33921702760/2011-12, TIN:3392 17 02760 /2012-13, and TIN:33921702760/2013-14 respectively all dated 16.03.2016 and quash the same and direct the respondent to consider and pass fresh orders as per the directions given by the first appellate authority in Ap.No.234/2015, 236/15, 237/15, 235/15 respectively all dated 16.12.2015 relating to reversal of input tax credit on stock transfer.

For Petitioner : Mr.R.Kumar

For Respondents : Mr.Manoharan Sundaram
Addl. Government Pleader (Tax)

O R D E R

Heard Mr.R.Kumar, learned counsel for the petitioner and Mr.Manoharan Sundasram, learned Additional Government Pleader appearing for the respondent.

2. The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), has challenged the Assessment Order for the years 2010-11, 2011-12, 2012-13 and 2013-14 dated 16.12.2015 with regard to the reversal of the Input Tax Credit for stock transfer covered by Form F and in respect of the other issues, liberty is granted to the petitioner to file an appeal as he has already paid 10% of the disputed amount.

3. We need not labour much to decide the controversy raised in these writ petitions in the light of the recent amendment to the Tamil Nadu Value Added Tax Act, 2006 by notification in G.O.(Ms) No.18, Commercial Taxes and Registration (B1) Department, dated 29.01.2016 wherein a separate column has been given in Annexure 12 for Stock Transfer/Consignment sales without Form F-Section 19(2). It may be true that the petitioner has not brought to the notice of the Assessing Officer about this amendment. Nevertheless, the Assessing Officer also did not appear to have been aware of the amendment. On that ground alone, the impugned orders of assessment insofar as it relates to ITC reversal for Stock Transfer covered by Form F is remitted to the Assessing Officer for fresh consideration by taking into consideration the notification issued by the Government dated 29.01.2016, as observed earlier.

In the result, the writ petitions are partly allowed and the impugned orders are set aside and the matter is remitted back to the Assessing Officer insofar as it relates to ITC reversal for Stock Transfer covered by Form F. In all other respects, liberty is granted to the petitioner to file an appeal before the Appellate Authority and if such appeal is filed within a period of thirty days from the date of receipt of a copy of this order, the same shall be entertained without reference to limitation and while directing pre-deposit, the Appellate Authority shall take note of the amount already paid by the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa

To

The Commercial Tax Officer
Gummidipoondi Assessment Circle
38, GNT Road, Second Floor
Gummidipoondi.

2 ccs to Mr.R.Kumar, Advocate, sr.36266, 36268
1 cc to Special Government Pleader(T), sr.36201

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kji co
kra 14.07.2016