

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.15695 to 15699 of 2014
and
M.P.Nos.2 to 2 of 2014

Ponneri Steel Industries,
Represented by its partner,
Mr.Manmohan Agarwal,
120/2B & 121, GNT Road, Pervallur,
Chinnambedu, Thiruvellore District. ... Petitioner in all WPs.

Vs.

The Assistant Commissioner (CT)
Ponneri Assessment Circle,
Ponneri - 601 204. ... Respondent in all WPs.

Prayer: Petitions filed are under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the respondent in TIN 33271700450/2006-07 dated 05.05.2014; TIN 33271700450/2007-08 dated 05.05.2014; TIN 33271700450/2008-09 dated 05.05.2014; TIN 33271700450/2009-10 dated 05.05.2014; TIN 33271700450/2010-11 dated 05.05.2014 and quash in respect of reversal of input tax credit on stock transfer.

For Petitioner : Mr.R.Kumar

For Respondent : Mr.Manokaran Sundaram

Additional Government Pleader

COMMON ORDER

Heard Mr.R.Kumar, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader accepts notice on behalf of the respondent. With the consent of the learned counsel on either side, these Writ Petitions are taken up for final disposal.

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 Orders for the years 2006-2007, 2007-2008, 2008-2009, 2009-2010 and 2010-2011 dated 05.05.2014 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.

4. In the result, these 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/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT)
Ponneri Assessment Circle,
Ponneri - 601 204.

+1 cc to Mr.R.Kumar, Advocate, sr.42266.

msm(co)
krd 11/8

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