IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.12.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.44766 & 44767 of 2016 and
W.M.P Nos.38594 & 38595 of 2016

Tvl.Marutham Electricals,
rep by its Partner A.Gopal,
No.7, Mettur Road,
Erode - 638 001. .. Petitioner in both W.Ps

Versus

The Assistant Commissioner (CT) (FAC),
Mettur Road Assessment Circle,
Erode. .. Respondent in both W.Ps

Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records on the files of the respondent in TIN:33683042850 for the assessment years 2014-15 and 2015-16 dated 02.12.2016 and quash the same.

For Petitioner : Mr.R.Senniappan
(in both W.Ps)

For Respondents : Mr.S.Kanmani Annamalai,
(in both W.Ps) Additional Government Pleader (Tax)

C O M M O N O R D E R

The petitioner has come forward with this Writ Petition challenging the assessment order dated 02.12.2016.

2.The issues which have been raised by the petitioner before this Court in W.P.Nos.44766 of 2016 are as follows:

(i)Mis-match - seller not filed return with payment of tax to the respective assessing authority - issue covered by decision of this Court in W.P.No.32383of 2016 dated 07.10.2016 [Sri Murugan Textile Traders, Erode Vs. Assistant Commissioner (CT), Bhavani Assessment Circle, Bhavani].

(ii)Wrong assumption by the respondent that the seller had given certain percentage of discount. Therefore, he disallowed the input tax credit to that extent notwithstanding the fact that there is no such discount and in fact the petitioner had sold value more than the purchase value and accordingly the Value Added Tax had been arrived at and paid to the department.

3.The issues which have been raised by the petitioner before this Court in W.P.Nos.44767 of 2016 are as follows:

(i)Mis-match – seller not filed return with payment of tax to the respective assessing authority – issue covered by decision of this Court in W.P.No.32383of 2016 dated 07.10.2016 [Sri Murugan Textile Traders, Erode Vs. Assistant Commissioner (CT), Bhavani Assessment Circle, Bhavani].

(ii)There was an amount of Rs.70,71,589/- said to have been a value of stock variation as arrived at by the Inspecting Official and projected by the respondent in a tabular statement notwithstanding the fact that there was no verification of stock by physically with reference to the accounts maintained by the petitioner. But simply a lump sum stock of Rs.1,00,24,647/- has been shown as the actual stock. Both Inspecting Official as well as the respondent had erred and done a patent error in furnishing actual stock statement that was compared with that of the book stock.

4.It is not in dispute that the first issue mentioned supra in both the present Writ Petitions is already covered by the decision of this Court made in W.P.No.32383of 2016 dated 07.10.2016 [Sri Murugan Textile Traders, Erode Vs. Assistant Commissioner (CT), Bhavani Assessment Circle, Bhavani]

5.With regard to the second issue, whether the decision is applicable or not is a matter for the authority to decide. This Court cannot mechanically say that this issue is also covered by the decision rendered by this Court. It is open to the petitioner to prefer an appeal before the concerned Appellate Authority, if so advised.

6.With this observation, the Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

va/kmi

Note: Registry is directed to return the original impugned orders to the learned counsel for the petitioner.

To

The Assistant Commissioner (CT) (FAC),
Mettur Road Assessment Circle,
Erode.

+1cc to Mr.R.Senniappan,Advocate sr.76468

+1cc to The Government Pleader sr.76459

W.P.Nos.44766 & 44767 of 2016 and
W.M.P Nos.38594 & 38595 of 2016

kji(co)
ss(19/01/2017)