IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.9050 of 2017
and
WMP No.9966 of 2017

Tvl.Luk India Private Ltd.,
Rep. By its Manager,
7, New Rayakottai Road,
Hosur. .. Petitioner

Vs.

The Assistant Commissioner (CT),
Hosur South,
Hosur. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari to call for the records of the proceedings of the respondent 12.04.2016 in CST No.673876/2013-14 in so far as it seeks to reverse the petitioner's Input Tax Credit under Section 19(2)(v) and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (T)

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader, takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved the order of assessment only in so far as the reversal of ITC under Section 19(2)(V) of the CST Act is concerned. In respect of the other issue viz., 19(5)(C) is concerned, the learned counsel for the petitioner submits that the petitioner has accepted the assessment and paid the tax liability.

3.Learned Additional Government Pleader for the respondent submits that the issue involved in this case is covered by the order passed by this Court in W.P.No.7969 of 2014 dated 06.02.2017.

4. Heard both sides.

5.It is not in dispute that the issue involved in the present writ petition filed as against the order of assessment only in so far as the reversal of ITC under Section 19(2)(V) of CST Act, is covered by the earlier decision made by this court in W.P.No.7969 of 2014 dated 06.02.2017.

6.This court has also considered the said issue and in its order dated 17.03.2017 made in W.P.No.6567 of 2017, it has been observed as follows:

> "Upon hearing the learned counsel on either side and considering the fact that the issue involved in this writ petition, namely reversal of ITC under Section 19(2)(v) of the Tamil Nadu VAT Act, is covered by the above decision of this Court as admitted by the both sides, this writ petition is allowed and the impugned assessment order insofar as the reversal of ITC under Section 19(2)(v) of Tamil Nadu VAT Act and the order dated 20.01.2017 dismissing the rectification application filed by the petitioner alone are set aside. Consequently, the matter is remitted back to the respondent for considering the above said issue afresh in the light of the order passed in W.P.No.7969/2014 dated 06.02.2017. It is made clear that in respect of other aspects of the impugned assessment order this Court has not gone into the same and expressed any view. Since the reversal under Section 19(5) (C) is not contested and that the learned counsel for the petitioner also submitted that the petitioner is willing to pay the amount of Rs.6,159/- to the respondent within a period of two weeks from the date of receipt of a copy of this order. Therefore, the respondent has to consider the matter afresh only in respect of the reversal ITC under Section 19(2) (C) in the light of the order already passed in W.P.No.7969/2014 dated 06.02.2017. No costs. Consequently, connected miscellaneous petition is closed."

7.Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted back only in so far as the issue concerning reversal of ITC under section 19(2) (V) is concerned. The Assessing Authority shall re-consider the issue and pass fresh order of assessment, in the light of the order already passed by this court in W.P.No.7969 of 2014 dated 06.02.2017. Such exercise shall be done by the Assessing Officer within a period of four weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vri

To

The Assistant Commissioner (CT),
Hosur South,
Hosur.

+1cc to M/S. Adithya Reddy, Advocate Sr. 22995
+1cc to the Special Government Pleader Sr. 22673

W.P.No.9050 of 2017

MP(CO)
VR(24/4/21017)