IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7489 of 2017
&
W.M.P.No.8182 of 2017

Stanpacks (India) Limited
Rep. By its
Joint Managing Director
G.S.Sridhar
No.4, Nowroji Road, Chetpet,
Chennai 600 031. ...Petitioner

Vs.

Assistant Commissioner (CT)
Kilpauk Assessment Circle,
F/50, Anna Nagar(East)
Ist Main Road,
Chennai - 600 102. ...Respondent

PRAYER: Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings passed in TIN.33071121276/2014-2015 and quash the same in so far it seeks to reverse the input tax credit (ITC) of Rs.10,59,029/- relating section 19(2)(V) of the TNVAT Act 2006 and dated 20.02.2017 and further direct the respondent to follow the order dated 06.02.2017 in W.P.No.7969/2014, as the impugned order is contrary to the order passed in WP.No.7969 of 2014.

For Petitioner ... Mr.R.Seniappan

For Respondent ... Mr. K.Venkatesh
Government Advocate

O R D E R

This Writ Petition is filed challenging the order of assessment dated 20.02.2017 only in so far as to the issue relating to reversal under Section 19 (2) (v) of the TNVAT Act, 2006 is concerned .

2. Heard Mr.Seniappan, learned counsel appearing for the petitioner and Mr.K. Venkatesh, learned Government Advocate appearing for the respondent.

3. Learned counsel for the petitioner submitted that though the assessment order was passed touching upon the issues in respect of reversal under Section 19(2) (v) and 19 (5) (c) of the said Act, the petitioner has agreed to the confirmation of proposal made under Section 19 (5) (c) and is now willing to pay the tax demanded under Section 19 (5) (c) viz., Rs.6,90,833/-. However, in so far as the confirmation of the proposal under Section 19 (2) (v) is concerned, the learned counsel submitted that this Court has already considered the said issue in WP.No.7969/2014 dated 06.02.2017 in favour of the petitioner and therefore, the assessment order in so far as confirmation of proposal under Section 19(2) (v) has to be set aside and the matter has to be remitted back for passing fresh order in the light of the order already passed by this court in the above said writ petition.

4. Learned Government Advocate appearing for the respondent is not disputing the above said fact.

5. 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 both sides, this writ petition is allowed and the impugned assessment order insofar as the reversal of ITC under Section 19(2)(v) alone is 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. Hence, insofar as those issues not considered in this writ petition are concerned, it is for the petitioner to comply with same as admitted before this court as stated supra. The respondent shall consider the issue which has been remitted

back to him herein and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. If personal hearing is required by the petitioner, it is open to him to make such request in writing and if any such request is made, the respondent shall consider the same and pass orders after giving him an opportunity of hearing. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gv

To

The Assistant Commissioner (CT)
Kilpauk Assessment Circle,
F/50, Anna Nagar(East)
Ist Main Road,
Chennai - 600 102.

+1cc to Mr.Murali, Advocate, S.R.No.20163
+1cc to the Government Pleader, S.R.No.20110

W.P.No.7489 of 2017
&
W.M.P.No.8182 of 2017

GMI(CO)
RS(26/04/2017)