IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2017
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The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.6542 to 6546 of 2017
and
W.P.M.P.Nos.7040 to 7044 of 2017

Tvl. Sree Rengaraaj Steel & Alloys (P) Ltd.,
rep. by its Director, Mr.P.Srinivasan ...Petitioner

Vs.

The Assistant Commissioner (CT)
Suramangalam Assessment Circle,
Salem. ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records on the file of the respondent, in TIN : 33812640956/2011-12, 2012-13, 2013-14, 2014-15 and 2015-16, dated 08.02.2017, and to quash the same and further, to direct the respondent to inspect and examine the manufacturing process before the assessment as directed by this Court,in the judgment reported in **(2015) 81 VST 389 (Madras).**

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.K.Venkatesh

Government Advocate

C O M M O N O R D E R

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

2. The petitioner, who is a registered dealer, on the file of the respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (henceforth, referred to as 'the TNVAT Act) has filed these Writ Petitions, challenging the notices issued by the respondent, dated 08.02.2017, for the assessment years 2011-12 to 2015-16, proposing to reverse the Input Tax Credit (ITC) availed by the petitioner on the ground that the loss of inputs has to be adopted at the rate of 11%.

3. The petitioner's case is that, such uniform percentage cannot be fixed by relying the decision rendered in the case of ***(Interfit Techno Products Ltd., Vs. Principal Secretary/Commissioner of Commercial Taxes, Ezhilagam, Chepauk, Chennai and another)*** reported in **2015 81 VST 389 (Madras).**

4. When these Writ Petitions came up for admission before this Court, order of interim direction was issued on 17.03.2017, directing the respondent to inspect the petitioner's Factory and examine the manufacturing process and submit a report. This direction has been carried out by the respondent, and a report has been submitted to the learned Special Government Pleader, vide letter, dated 17.04.2017, and surprisingly, it is found that the manufacturing loss noticed is only 1.01%, in contradiction with the percentage of 11% of loss of inputs proposed in the impugned notices. Thus, it is clear that, after conducting inspection, the correct percentage of loss has been determined by the Assessing Officer, and this is what this Court directed the respondent/Assessing Officer to do in the light of the decision rendered in **Interfit Techno Product's case** (referred to supra).

5. In view of the subsequent developments taken place in these matters, these Writ Petitions are disposed of, by directing the petitioner to submit their objections to the impugned notices, by taking into consideration the report submitted by the respondent, dated 21.04.2017,

within a period of 15 days from the date of receipt of a copy of this order. After which, the respondent shall afford an opportunity of personal hearing to the petitioner, and complete the assessment in accordance with law. It is needless to state that the respondent is entitled to proceed only as per the report submitted before this Court, determining the total invisible loss at 1.01% percentage. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

26.07.2017

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Index : yes/no

To

The Assistant Commissioner (CT)
Suramangalam Assessment Circle,
Salem.

T.S.Sivagnanam, J.

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26.07.2017