IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:- 17.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.No.6567 of 2017
and
W.M.P.No.7064 of 2017

M/s.R.Viswanathan & Co.
Rep. By its Mandate Holder. ...Petitioner

Versus

The Assistant Commissioner (CT)
Central-II Assessment Circle,
Tirupur – 641 601. ...Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Certiorarified Mandamus to call for the impugned proceedings of the respondent in TIN/33302462223/2014-2015 dated 2.9.2016 and the consequential proceedings in TIN/33302462223/2014-2015 dated 20.1.2017 and quash the same and further direct the respondent not to apply Sec.2(1) of the Tamil Nadu Valud Added Tax (Fifth Amendment) Act, 2013 to the petitioner herein as much as petitioner is a manufacturer of ghee in the State of Tamil Nadu.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.K.Venkatesh,
Government Advocate.

O R D E R

Mr.K.Venkatesh, learned Government advocate takes notice for the respondent and by consent of the parties, the main writ petition itself is taken up for final disposal.

2. This writ petition is filed against the order of assessment dated 02.09.2016 reversing the ITC under Section 19 (5)(C) and 19(2)(V) of Tamil Nadu VAT Act and the order dated 20.01.2017 dismissing the rectification application filed by the petitioner.

3. Though this writ petition was filed challenging the assessment order consisting of reversal of ITC under both the provisions as stated supra, learned counsel for the petitioner submitted that the petitiner is not having any grievance or objection as against the reversal made under section 19(5)(C) of the Tamil Nadu VAT Act. However, he submitted that the petitioner is aggrieved against the reversal made under Section 19(2)(V) of the said Act as such reversal is not valid in view of the recent decision made by this Court in W.P.No.7969/2014 dated 06.02.2017. The learned Government Advocate is not disputing the fact that the issue in so far as ITC reversal under section 19(2) (v) of the said Act, is covered by the said earlier order passed by this court.

3. 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 Aact 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 form 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 of ITC under Section ***19(2)(V) of the Tamil Nadu VAT ACT** 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.

Sd/-
Asst.Registrar (CS II)

***Amended as per the order of this court dated 18/4/2017 in WP.No.6567/17**
-s/d-
Assistant Registrar(CO)
dt:18/04/2017

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT)
Central-II Assessment Circle,
Tirupur – 641 601.

To be Substituted to the order already despatched on 17/3/17

+1cc to the Special Government Pleader SR.No.16945
+1cc to P.Raj Kumar, Advocate SR.No.***23171**

W.P.No.6567 of 2017

SS(CO)
GN(04/04/2017)
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