IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.03.2017
CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.6668 and 6669 of 2017
And
W.M.P.Nos.7184 and 7185 of 2017

Tvl.Copral Insulated Conductors Pvt Ltd,
Represented by its Manager/ Authorised Signatory.
... Petitioner in both the W.Ps.

Vs.

The Assistant Commissioner(CT),
Hosur - North.
... Respondent in both the W.Ps.

Common Prayer:
Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondents in CST No.448236/2013-14 dated 10.06.2016 and CST No.448236/2014-15 dated 02.02.2017 respectively, passed by the respondent and quash the same in so far as it relates to reversal of Input Tax Credit under Section Proviso to Section 19(2)(9v) of the Tamil Nadu Value Added Tax Act, 2006 therein and further direct the respondent not to apply Sec.2(1) of the Tamil Nadu Value Added Tax(Fifth Amendment) Act, 2013 to the petitioner herein in as much as the petitioner is a manufacture of goods in the State of Tamil Nadu.

For Petitioner : M/s.Naveena.D
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Taxes)
in both WP

COMMON ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) takes notice for the respondent and by consent of parties, the main writ petition itself, is taken up for final disposal at the admission stage, as the issue involved in this case is squarely covered by a decision of this Court made in W.P.No.7969 of 2014 followed in another writ petition in W.P.No.6567 of 2017, in favour of the petitioner.

2.The petitioner is aggrieved against the order of assessment reversing the Input Tax Credit under Section 19(5)(C) as well as 19(2)(V) of the CST act.

3.The learned counsel appearing for the petitioner submitted that though this writ petition is filed challenging the order of assessment, the petitioner has confined the relief only insofar as it relates to reversal of Input Tax Credit under proviso to Section 19(2)(V) of the above said Act and he further submitted that insofar as the said issue is concerned, this Court has already held in W.P.No.7969 of 2014 etc. batch dated 06.02.2017 in favour of the petitioner.

4.This Court has also considered the similar issue and in its order dated 17.03.2017 made in W.P.Nos.6567 of 2017, wherein, 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 of 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.”

5.Considering the fact that the issue involved herein in respect of the the ITC reversal under Section 19(2)(V) of the above said Act is covered by this Court's order as stated supra, these writ petitions are allowed and the impugned orders insofar as the reversal of ITC under Section 19(2)(V) of the Act alone are set aside and 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 of 2014 dated 06.02.2017. It is made clear that in respect of other aspects of the impugned assessment orders, this Court has not gone into the same and expressed any view.

6.The learned counsel appearing for the petitioner further submitted that insofar as the ITC reversal under the other head is concerned, the petitioner has already paid the tax demanded. The said statement is also recorded.

7.The writ petitions are accordingly, allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner(CT),
Hosur - North.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.17182
+1cc to the Government Pleader, S.R.No.17276

W.P.Nos.6668 and 6669 of 2017
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RR(CO)
RS(04/04/2017)