IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2017

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.9857 & 9858 of 2017

M/s. Best Engineers Pumps Pvt. Limited,
Rep. by Mr. K. Ramakrishnan- Managing Director
59-B, Thadagam Road,
Velandipalayam,
Coimbatore-641 025 ... Petitioner in W.P.No.9857 of 2017

M/s. Enbest Pumps (India) Pvt. Limited,
Rep. by Mr. K. Ramakrishnan, Director
S.F.No.362/3, Thadagam Road,
Pannimadai Village, Kanuvai,
Coimbatore-641 108 ... Petitioner in W.P.No.9858 of 2017

Vs.

The Assistant Commissioner (CT),
Velandipalayam Assessment Circle,
Coimbatore – 641 018. ... Respondent in both the W.Ps.

These writ petitions are filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records of the respondent in TIN/33556200417/2013-14 & TIN/33286201390/2013-14 respectively and quash the proceedings dated 23.03.2017 passed therein in so far as it reverses the ITC U/s.19(2)(v) of the TNVAT Act, 2006.

For Petitioners: Mr.B.Raveendran

For Respondent : Mr.K.Venkatesh,
Government Advocate

COMMON ORDER

Mr. K.Venkatesh, learned Government Advocate takes notice for the respondent and by consent, the writ petitions are taken up for final disposal.

2. The Petitioners are aggrieved against the order of assessment made in respect of the assessment year 2013-14 dated 23.03.2017 only insofar as it relates to the reversal of the ITC under section 19(2)(v) of the Tamil Nadu VAT Act, 2006.

3. The learned counsel for the petitioners submitted that in respect of the other issues dealt with by the Assessing Authority in the impugned orders of assessment, the petitioners are not questioning the same. Therefore, he submitted that since the issue with regard to the reversal of ITC under section 19(2)(v) is covered by the recent decision of this Court made in W.P.No.7969 of 2014, dated 06.02.2017 in favour of the petitioners, this Court can consider grant of such relief as has been granted to the similarly placed persons.

4. The Learned Government Advocate is not disputing the fact that one of the issue dealt with by the Assessing Officers is in respect of ITC reversal under Section 19(2)(v) of the said Act, over which, the present writ petitions are filed. He also admitted the position that the said issue is covered by the above decision of this Court made in W.P. No. 7969 of 2014, dated 06.02.2017.

5. Upon hearing the learned counsel on either side and considering the fact that the issue involved in these writ petitions, 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, these writ petitions are allowed and the impugned assessment orders insofar as the reversal of ITC under Section 19(2)(v) 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 orders, this Court has not gone into the same and expressed any view. Hence, insofar as those issues not considered in these writ petitions are concerned, it is for the

petitioners either to comply with or to challenge the same before the Appellate Authority in the manner known to law. 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 petitioners, it is open to them to make such request in writing and if any such request is made, the respondent shall consider the same and pass orders after giving them an opportunity of hearing. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi/mm

To

The Assistant Commissioner (CT)
Velandipalayam Assessment Circle
Coimbatore - 641 018.

+1cc to Mr.B.Raveendran, Advocate Sr.24268
+1cc to the Government Pleader Sr.24378

W.P.Nos.9857 & 9858 of 2017

mg[co]
srg 26/04/2017