IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.6993 of 2017
&
W.M.P.No.7629 of 2017

Tvl. Everest Agencies,
Rep by its Partner Mr. Samson Devanad,
New, No.171, Old No.81, Eldams Road,
Teynampet, Chennai-600 018. ... Petitioner

Vs.

The Assistant Commissioner (CT) (FAC),
Alwarpet Assessment Circle,
No.46, Greenways Road,
Chennai-600 028. ... Respondent

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the respondent in TIN No.33180821340/2014-15 dated 08.02.2017 quash the same.

For Petitioner : M/s. S. Raveekumar

For Respondents : Mr. S. Kanmani Annamalai
Additional Government Pleader(Tax)

O R D E R

The petitioner is aggrieved against the order dated 08.02.2017, wherein and whereby the Assessing Authority has denied the benefit of ITC reversal to the tune of Rs.7,59,971/- (Rupees seven lakhs fifty nine thousand nine hundred and seventy one) and also imposed penalty under Section 27(4)(i)of TNVAT Act 2006, to the tune of Rs.3,79,986/- only on the ground that the petitioner had availed the purchases from the dealers whose registration certificate was cancelled later with retrospective effect.

2. Mr. S. Kanmani Annamalai, learned Additional Government Pleader, takes notice for the respondent by the consent of parties, the main writ petition is taken up for final disposal at the admission stage itself.

3. Since the issue involved in this writ petition is similar to one decided in a case reported in [2013] 59 VST 256 (Mad) Jinsasan Distributors v. Commercial Tax Officer (CT), Chintaripet Assessment Circle, Chennai, affirmed by the Divisional Bench of this Court reported in [2016] 96 VST 315 (Mad) Assistant Commissioner (CT), Broadway Assessment Circle, Chennai v. Bhairav Trading Company, it is represented by the learned counsel appearing for both sides that the Input Tax Credit cannot be denied to the Assessee, only on the ground that the registration certificate of the dealers was cancelled with retrospective effect.

4. Considering the fact that the issue involved herein is already decided in favour of the petitioner and considering the fact that the impugned order of assessment has been passed only for the reason that the purchase from the dealers whose registration was cancelled later with the retrospective effect, I am of the view that the petitioner is entitled to succeed by applying the above decision of this Court, in [2013] 59 VST 256 (Mad) Jinsasan Distributors v. Commercial Tax Officer (CT), Chintaripet Assessment Circle, Chennai and [2016] 96 VST 315 (Mad) Assistant Commissioner (CT), Broadway Assessment Circle, Chennai v. Bhairav Trading Company.

5. Accordingly this writ petition is allowed and the impugned order is set aside.

No Costs. Consequently, W.M.P. No. 7629 of 2017 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

at

To

The Assistant Commissioner (CT) (FAC),
Alwarpet Assessment Circle,
No.46, Greenways Road,
Chennai-600 028.

+1cc to Mr.S.Raveekumar, Advocate, S.R.No.17838
+1cc to the Special Government Pleader(T), S.R.No.18344

W.P.No.6993 of 2017 &
W.M.P.No.7629 of 2017

RR(CO)
CA(10/04/2017)