IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:26.04.2017

CORAM

THE HON'BLE MR. JUSTICE K. RAVICHANDRABAABU

W.P.No. 14624 of 2015
and
M.P.No. 1 of 2015

M/s The Standard Chemical Company Private Limited,
Rep. by its Director Kushagra Singhania,
No.5/11-B, SIDCO Industrial Estate,
Ambattur, Chennai - 600 098.
...Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai - 600 009.

2. The Assistant Commissioner (CT),
Pattravakkam Assessment Circle,
No.5, 1st High Court Colony,
Villivakkam, Chennai - 600 049.
...Respondents

Prayer:
Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records on the file of the 2nd respondent in CST.46531/2013-2014 dated 06.04.2015 and quash the same.

For Petitioner : Mr. T. Pramodkumar Chopda
For Respondents : Mr. K. Venkatesh,
Government Advocate

ORDER

This Writ Petition is filed against the order of assessment dated 06.04.2015 passed in respect of assessment year 2013-14.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The assessing order was passed, based on three issues,

viz., Input Tax Credit (ITC) reversal made under section 19(2)(v); under section 19(5)(c) and on exempted sales.

4. The learned counsel for the petitioner submitted that insofar as the issue concerning the Input Tax Credit (ITC) reversal under section 19(5)(c) of the TNVAT Act, 2006, the petitioner is not pressing the writ petition. Likewise, he further submitted that insofar as the issue concerning the ITC reversal made for exempted Sales (SEZ Sales) is concerned, he submitted that the petitioner is entitled to such reversal, since those sales are SEZ sales and therefore the Assessing Officer can be directed to re-consider the issue once again. The learned counsel submitted that insofar as the ITC reversal made under Section 19(2)(v) of the TNVAT Act, 2006 is concerned, the matter may be remitted back to the Assessing Officer, since the said issue is already covered by the decision of this Court made in WP.No.7969 of 2014 dated 06.02.2017.

5. The learned Government Advocate appearing for the respondents is not disputing the fact that the issue in respect of ITC reversal under section 19(2)(v) is covered by the above said decision of this court. He also submitted that the Assessing Officer will re-consider the issue viz., the Input Tax Credit (ITC) reversal made for exempted sales (SEZ Sales).

6. Considering the above stated facts and circumstances and considering the fact that one of the issue viz., the Input Tax Credit (ITC) reversal under section 19(2)(v) is covered by the decision of this Court made in WP.No.7969 of 2014 dated 06.02.2017, I am of the view that the Assessing Officer has to re-do the assessment after hearing the petitioner in person as well. However the assessment made insofar as the ITC reversal under Section 19(5)(c) is concerned, the assessment stands. Accordingly, the writ petition is allowed in part and the impugned order of assessment is set aside insofar as it relates to ITC reversal under Section 19(2)(v) and exempted sales (SEZ sales) are concerned. The matter is remitted back to the Assessing Officer for redoing the assessment after hearing the petitioner in person as well as by taking note of the decision made by this Court in WP.No.7969 of 2014 dated 06.02.2017. Such exercise shall be done by the Assessing Officer within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CSII)

True Copy
Sub-Assistant Registrar

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To

1. The State of Tamil Nadu,
   The Secretary to Government,
   Commercial Taxes and Registration Department,
   Fort St. George, Chennai - 600 009.

2. The Assistant Commissioner (CT),
   Pattravakkam Assessment Circle,
   No.5, 1st High Court Colony,
   Villivakkam, Chennai - 600 049.

+1 cc to the Special Government Pleader Taxes sr 25463
+1 cc to Mr.T.Pramodkumar Chopda Advocate sr 25486

W.P.No. 14624 of 2015

rj(co)
aa04/05/2017