IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.32653 and 32654 of 2017

AUTOCOM INDUSTRIES
Rep.by its Managing Partner
S.Manivannan
Plot No.320, SIDCO Industrial Estate
Ambattur, Chennai - 6000 998. .. Petitioner in both W.Ps.

..Vs..

Assistant Commissioner (CT)
Ambattur Assessment Circle,
Station No.127, Yadhaval Street
Padi, Chennai 600 050. .. Respondent in both W.Ps.

Prayer in W.P.No.32653 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent passed in TIN:33241360239/2013-14 dated 20.07.2017 and quash the same as the impugned proceedings of the respondent is unsustainable in law.

Prayer in W.P.No.32654 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent passed in TIN:33241360239/2014-15 dated 20.07.2017 and quash the same as the impugned proceedings of the respondent is unsustainable in law.

For Petitioner in both W.Ps. : Mr.N.Murali
For Respondent in both W.Ps. : Mr.S.Kanmani Annamalai
Additional Government Pleader

WEB COPY

COMMON ORDER

Heard Mr.N.Murali, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepts notice on behalf of the respondent.

2.The petitioner who is the registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and the Central Sales Tax, 1956

https://hcservices.ecourts.gov.in/hcservices/

(CST Act) has filed these writ petitions challenging the orders passed by the respondent rejecting the petitioner's application for refund pertaining to reversal of input tax credit under Section 19(2)(v) of the TNVAT Act. The petitioner's application for refund was based on the decision in the case of M/s.Everest Industries Limited, rep.by its Senior Manager, Finance V. The State of Tamil Nadu, rep.by its Secretary, Commercial Taxes Department and another in W.P.No.7969 of 2014 dated 06.02.2017. Earlier the petitioner had filed writ petitions before this Court in W.P.No.15072/2017 to consider the petitioner's application for refund. The said writ petition was disposed of by an order dated 16.06.2017 directing the respondent to take decision on merits and in accordance with law. Now, the respondent has rejected the petitioner's application for refund. The State has preferred an appeal as against the decision in the case of M/s.Everest Industries Limited and the Hon'ble Division Bench has entertained the writ appeal and granted an order of interim stay. Therefore, as of now the petitioner cannot pursue its application for refund based on the decision of the learned Single Judge in the case of M/s.Everest Industries Limited. Therefore, at this juncture, it may not be necessary for this Court to test the correctness of the impugned order.

3.Therefore, the writ petitions are closed giving liberty to the petitioner to renew their claim subject to the outcome of the appeal pending before the Hon'ble Division Bench. In the event, the assessee is successful before the Hon'ble Division Bench and application for refund made thereafter, the shall not be rejected on the ground of limitation. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cse/dna
To

The Assistant Commissioner (CT)
Ambattur Assessment Circle,
Station No.127, Yadhaval Street
Padi, Chennai 600 050.

+2ccs to Mr.N.Murali, Advocate, S.R.No.90148 & 90147
+1cc to the Spl.Government Pleader, S.R.No.90003

W.P.Nos.32653 and 32654 of 2017

GP(CO)
CS/12/01/18

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/