IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.12661 of 2017
and
W.M.P.No.13487 of 2017

Gabriel India Ltd.,
Rep.by its Sr.Manager,
Bl.Dhanalakshmi,
Moranapalli Village, SIPCOT -Phase-2,
Hosur. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Hosur (North). ... Respondent

Prayer:

Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the files of the respondent herein in CST No.448431/2014-15, dated 10.01.2017, quashing the same insofar as it reverses the input tax credit of Rs.79,13,506/-, quoting Section 19(2)(v) of TNVAT Act, 2006.

For Petitioner : Mr.Parthasarathy
for Mr.N.Inbarajan

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

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (Tax) appearing for the respondent .

2. This writ petition is filed challenging the order of assessment dated 10.01.2017 passed in respect of the assessment year 2014-2015, only insofar as the reversal of Input Tax Credit under Section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006 is concerned.

3. It is specifically stated by the writ petitioner in the affidavit filed in support of the writ petition, that insofar as

the other two issues viz., ITC reversal under Section 19(5)(c) and ITC reversal under Section 19(4)(i) of the TNVACT Act, 2006, are concerned, the petitioner is agitating the matter separately by way of revision.

4. The learned counsel for the petitioner submitted that insofar as the issue of ITC reversal under Section 19(2)(v) is concerned, the same is covered by the decision of this Court made in W.P.No.7969 of 2014 dated 06.02.2017 and therefore the same benefit is to be given to the petitioner herein.

5. The learned Additional Government Pleader is not disputing the fact that the issue of ITC reversal under Section 19(2)(v) is covered by the decision of this Court in W.P.No.7969 of 2014 dated 06.02.2017. Therefore, he submitted that the matter is to be remitted back to the Assessing Officer to reconsider the said issue in the light of the order passed by this Hon'ble Court in W.P.No.7969 of 2014, dated 06.02.2017.

6. Upon hearing the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent, it is seen that the petitioner is aggrieved only against the ITC reversal under Section 19(2)(v) of the TNVAT Act, 2006, in the present writ petition and in respect of other two issues, they are agitating the matter separately before the competent Revisional Authority. Therefore, this Court is not expressing any view on the other two issues, which are not the subject matter of this writ petition, however, so far as the issue of ITC reversal under Section 19(2)(v) of TNVAT Act, 2006 is concerned, as the said issue is covered by the decision of this Court made in W.P.No.7969 of 2014 dated 06.02.2017, it is for the Assessing Officer to re-consider the said issue afresh in the light of the above said order. Therefore, the writ petition is allowed and the impugned order is set aside, only insofar as the ITC reversal under Section 19 (2)(v) of the TNVAT Act, 2006 is concerned. Consequently, the matter is remitted back to the Assessing Officer to re-consider the assessment in respect of such issue in the light of the order passed in W.P.No.7969 of 2014 dated 06.02.2017. Such exercise shall be done by the respondent/Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mk/ms

To

The Assistant Commissioner (CT),
Hosur (North).

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.44448
+1cc to the Government Pleader, S.R.No.44652

W.P.No.12661 of 2017

GP(CO)
CA(05/07/2017)