IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.13655 of 2017

and

WMP.No.14842 of 2017

Tvl. Ozonetek Limited
Rep. by its Managing Director Mr.K.Patel
98, Landons Road,
Chennai-10. ... Petitioner

Vs.

The Assistant Commissioner (CT)
Kilpauk Assessment Circle,
No.50, 1st Avenue,
Anna Nagar East, Chennai-102. .... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in TIN No.33191120822/2014-2015 dated 06.03.2017 and quash the same as illegal and direct the respondent not to apply the proviso to Section 19(2)(v) of the Tamil Nadu Value Added Tax Act to the petitioner herein in as much as the petitioner is a manufacture of goods in the State of Tamil Nadu.

For Petitioner : Mr.D.Vijayakumar
For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Mr.K.Venkatesh, learned Government Advocate, takes notice for the respondent. By consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by the order of assessment dated 06.03.2017 passed in respect of the assessment year 2014-2015. The Assessing Officer has taken into consideration four

issues and passed the impugned order thereby imposing the reversal of tax to the tune of Rs.5,45,920/- in respect of the reversal of ITC under Section 19(2)(v) of the Tamil Nadu Value Added Tax, Act, 2006 and reversal of ITC under Section 19(5)(c) of the above said act.

3. The learned counsel for the petitioner submitted that insofar as the issue regarding the reversal of ITC under Section 19(2)(v) is concerned, the same is covered by an order passed by this Court in WP.No.7969 of 2014 dated 06.02.2017 and therefore the petitioner can also be given the very same benefit. Insofar as the reversal of ITC under Section 19(5)(c) is concerned, the learned counsel for the petitioner submitted that the petitioner is not disputing or agitating the same.

4. The learned Government Advocate for the respondent is not disputing the fact that the issue regarding the reversal of ITC under Section 19(2)(v) is covered by the decision made in WP.No.7969 of 2014 dated 06.02.2017.

5. As it is admitted by both sides, that the issue involved in this case viz., the reversal of ITC under Section 19(2)(v) of the TNVAT Act, is covered by the decision of this Court in WP.No.7969 of 2014 dated 06.02.2017 and this Court also followed the said decision and remitted back the matter to the Assessing Officer to re-do the order of assessment in the light of the above said order, in other similar cases, this writ petition is allowed in part and the impugned order of assessment is set aside only insofar as the issue involved in this case viz., ITC reversal under Section 19(2)(v) is concerned. Consequently, the matter is remitted back to the Assessing Officer to re-consider the said issue and pass fresh order of assessment in the light of the order already passed 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 miscellaneous petition is closed.

-s/d-
Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

mk

To

The Assistant Commissioner (CT)
Kilpauk Assessment Circle,
No.50, 1st Avenue,
Anna Nagar East, Chennai-102.

+1 cc to M/s.D.Vijayakumar Advocate sr 39442
+1 cc to Special Government Pleader sr 39660

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aa08/06/2017