IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P No.24687 of 2017
and
W.M.P.Nos.26048 & 26049 of 2017

M/s.Ferromet Steels Private Limited
Rep by its Director
No.80, Thandalachery Village
Gummidipoondi - 601 201.
Thiruvallur District. ... Petitioner

Vs.

Assistant Commissioner, (CT)
Gummidipoondi Assessment Circle
No.38, GNT Road, Gummidipoondi
Thiruvallur District. ... Respondent

Prayer:Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in TIN No.33571702225/ 2014- 15 dated 01.06.2017 and quash the illegal reversal levy of input tax credit Rs.8 37 563/- therein under Section 19(4) of the TNVAT Act and to direct the respondent to pass revised orders as per law.

For Petitioner : Mr.C.Baktha Siromoni

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.C.Baktha Siromoni, learned counsel for the petitioner, Mr.K.Venkatesh, learned Government Advocate appearing for the respondent. With consent of the learned counsel for both sides, the writ petition itself is taken up for final disposal.

2.The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 [hereinafter called as “the TNVAT Act”] and Central Sales Tax Act, 1956 [hereinafter called as “the CST Act”] on the file of the respondent/Department.

3.The petitioner is aggrieved by the order of assessment dated 01.06.2017 passed under the provisions of the TNVAT Act for the Assessment Year 2014-15. At the outset, it has to be mentioned that the very same impugned assessment order, was challenged by the petitioner in W.P.No.23408 of 2017. However, in the said writ petition the petitioner restricted the relief only with regard to the reversal of Input Tax Credit under Section 19 (4) of the TNVAT Act.

4.In the wit petition the petitioner has challenged the reversal of Input tax credit under Section 19 (4) of the TNVAT Act.

5.The earlier writ petition was disposed of by 13.09.2017 which reads as follows:-

> "In identical circumstances, an order has been passed by this Court in a batch of Writ Petitions in W.P.No.7969 of 2014 etc., batch, 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, dated 06.02.2017.
>
> 2.Learned counsel on either side agreed that the above order is fully applicable to the case on hand.
>
> 3.Following the above order passed by this Court, this writ petition is allowed and the impugned order is set aside. No costs. Consequently, connected miscellaneous petition is closed."

6.In terms of the above order, the writ petition was allowed with regard to the reversal of the input tax credit under Section 19(2) (v) of the TNVAT Act is concerned. So far as the claim made by the petitioner in the present writ petition is concerned, the respondent in the written instruction given by the learned Special Government Pleader dated 25.09.2017 would state that the petitioner has not filed any documentary evidence for having maintained separate accounts for the locally purchased goods and other purchased goods. If this is only the reason for not being able to complete the reasoned assessment, then the assessee is responsible for the same and he is bound to face the consequences.

7.The learned counsel for the petitioner would submit that the petitioner is in possession of the copy of necessary documentary evidence and if an opportunity is granted the petitioner would produce the same before the respondent.

8.In the light of the above, the writ petition stands disposed of by directing the writ petitioner to file a separate petition to establish their stand and on receipt of such petition, the respondent shall afford an opportunity of personal hearing and redo the assessment under Section 19(4) of the Act.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

maya/sai

To

Assistant Commissioner, (CT)
Gummidipoondi Assessment Circle
No.38, GNT Road, Gummidipoondi
Thiruvallur District.

W.P No.24687 of 2017

RJ(CO)
SP(13/11/2017)