In the High Court of Judicature at Madras

Dated : 19.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.24999 and 25000 of 2017

Kothari Petrochemicals Limited,
rep.by its Company Secretary
A.Thanikainathan, Chennai-34. ...Petitioner

Vs

The Assistant Commissioner (CT)
(FAC), Nungambakkam Assessment
Circle, No.88, Mayor Ramanathan
Salai, Chetpet, Chennai-31. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records on the files of the Respondent herein in CST/217771/2013-14 dated 21.1.2016, quash the same in so far as it has found the reversal of Input Tax Credit of Rs.50,35,870/- to be in order and accordingly direct the respondent to make cash refund of Rs.50,35,870/-; and to call for the records on the files of the Respondent herein in CST/217771/2014-15 dated 22.1.2016, quash the same in so far as it has found the reversal of Input Tax Credit of Rs.93,02,900/- to be in order and accordingly direct the respondent to make cash refund of Rs.93,02,900/-, respectively.

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

For Respondent : Mrs.Narmadha Sampath, SGP

COMMON ORDER

Mrs.Narmadha Sampath, learned Special Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The petitioner claims to be a manufacturer and seller of poly isobutylene and light polymer.

3. These writ petitions are filed challenging the orders of assessment dated 21.1.2016 and 22.1.2016 passed in respect of the years 2013-14 and 2014-15 only in so far as the reversal of input tax credit under Section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006 is concerned.

4. The learned counsel for the petitioner submitted that in so far as the issue of input tax credit reversal under Section 19(2)(v) of the State Act is concerned, the same is covered by the decision of this Court in the case of Everest Industries Limited Vs. State of Tamil Nadu [reported in (2017) 100 VST 158] and that therefore, the same benefit is to be given to the petitioner herein.

5. The learned Special Government Pleader is not disputing the fact that the issue of input tax credit reversal under Section 19(2)(v) of the State Act is covered by the said decision. Therefore, she submitted that the matter is to be remitted back to the Assessing Officer to reconsider the said issue in the light of the decision of this Court in the case of Everest Industries Limited.

6. Upon hearing the learned counsel on either side, it is seen that the petitioner is aggrieved only against the input tax credit reversal under Section 19(2)(v) of the State Act in the present writ petitions. Therefore, this Court is of the view that as the issue involved herein is covered by the decision of this Court in Everest Industries Limited, it is for the Assessing Officer to re-consider the said issue afresh in the light of the aforesaid decision.

7. Accordingly, both the writ petitions are allowed and the impugned orders are set aside in so far as the input tax credit reversal under Section 19(2)(v) of the State Act is concerned. Consequently, the matter is remitted back to the Assessing Officer to re-consider the assessments in respect of such issue in the light of the decision of this Court in the case of Everest Industries Limited. Such exercise shall be done by the respondent/Assessing Officer within a period of eight weeks from the date of receipt of a copy of this order. No costs.

sd/-
Assistant Registrar (CCC)

/True Copy/

Sub Assistant Registrar

RS

To
The Assistant Commissioner (CT) (FAC),
Nungambakkam Assessment Circle,
No.88, Mayor Ramanathan Salai,
Chetpet, Chennai-31.

+1CC to M/S.N.INBARAJAN Advocate SR.NO.68287

WP.Nos.24999 & 25000 of 2017

SS[CO]
MK:10/10/2017