In the High Court of Judicature at Madras

Dated : 20.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.25173 of 2017 & WMP.No.26609 of 2017

M/s.Suryadev Alloys and Power
Private Limited, rep. by its Director ...Petitioner

Vs

The Assistant Commissioner (CT)
Gummidipoondi Assessment Circle,
No.38, II Floor, GNT Road,
Gummidipoondi 601 201. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN : 33921702760/2014-15 dated 17.3.2017, quash the same as illegal, contrary to the provisions of the Act and principles laid down in the case of Everest Industries Ltd., reported in 100 VST 158 and direct the respondent to refund the amount of Rs.14,05,331/- paid towards reversal of ITC under proviso to Section 19(2)(v) of TNVAT Act.

For Petitioner : Mr.T.Pramodkumar Chopda
For Respondent : Mr.K.Venkatesh, GA

O R D E R

Heard Mr.T.Pramodkumar Chopda, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice for the respondent. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which 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, is aggrieved by the impugned assessment order dated 17.3.2017 in so far as it directs reversal of input tax credit under Section 19 (2)(v) of the State Act for the sales made at 2% with C Form Declaration.

3. The issue as to whether such reversal can be directed to be made is no longer res integra and has been settled by this Court in the case of Everest Industries Limited Vs. State of

Tamil Nadu [reported in (2017) 100 VST 158]. Therefore, to that extent, the impugned order is not tenable.

4. Accordingly, the writ petition is allowed and the finding rendered by the respondent in paragraph 9 of the impugned order is set aside. The petitioner is directed to file an application for refund of the input tax credit, which has been reversed and if such application is filed, the respondent shall take note of the decision in Everest Industries Limited and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the above WMP is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

RS

To

The Assistant Commissioner (CT), Gummidipoondi Assessment Circle, No.38, II Floor, GNT Road, Gummidipoondi 601 201.

+1cc to Mr.T.Pramodkumar Chopda, Advocate in sr.no.68938

WP.No.25173 of 2017&
WMP.No.26609 of 2017

NR 10/10/2017