

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2017

CORAM

The Hon'ble Mr. Justice HULUVADI G. RAMESH
AND
The Hon'ble Dr. Justice ANITA SUMANTH

W.P.Nos.26587 and 26588 of 2015

M/s. ESAB India Limited,
represented by its Vice President-Finance,
13, Third Main Road,
Ambattur,
Chennai 600 058 ... Petitioner in both WPs.

/vs/

1. The State of Tamilnadu,
represented by its Secretary,
CT&RE Department,
Fort St. George,
Chennai 600 009.
2. The Asst. Commissioner (CT),
Pattaravakkam Assessment Circle,
No.5, 1st Floor,
South High Court Colony,
Villivakkam,
Chennai 600 049. ... Respondents in both WPs.

Prayer in W.P.No. 26587 of 2015: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Declaration to declare Sec.2(11) of the Tamilnadu Value Added Tax act, 2006 as discriminatory and ultravires the Constitution of India and violative of Articles 14, 301, 303 and 304 of Part XIII of the Constitution of India, in so far as it postulates the condition of capital goods being used "in the State" for the purpose of levy of tax @4%/5% .

Prayer in W.P.No. 26588 of 2015: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari to call for the records of the second respondent in CST No.762827/2011-12, quash the impugned proceedings dated 24.7.2015 issued therein.

For Petitioner in both WPs : Mr.R.L.Ramani,
Senior Counsel for
Mr.B.Raveendran
For Respondents : Mr.Kanmani Annamalai
AGP (Taxes)

O R D E R

(Order of the Court was made by Dr.Anita Sumanth, J.)

The issue involved in the present Writ Petitions stands decided against the assessee and in favour of the State by the decision of the Division Bench of this Court in the case of M/s. Schwing Stetter (India) Pvt. Ltd., Vs Commissioner of Commercial Taxes, Ezhilagam, Chepauk, Chennai 600 005 and another in W.P.No.37604 of 2007 and batch, dated 5.4.2016. Accordingly, these Writ Petitions stand dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

msr

To

1. The Secretary,
CT&RE Department,
Fort St. George,
Chennai 600 009.
2. The Asst. Commissioner (CT),
Pattaravakkam Assessment Circle,
No.5, 1st Floor,
South High Court Colony,
Villivakkam, Chennai 600 049

+ 1 cc to Mr.B.Raveendran, Advocate, SR.9904

+ 1 cc to The Special Govt.Pleader(Taxes), SR.9956

W.P.Nos.26587 and 26588 of 2015

CA(CO)
NR 10/10/2017

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