IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM:

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.17834 and 17835 of 2017
and
W.M.P.Nos.19349 and 19350 of 2017

Suryaans Paper,
Represented by its Managing Partner,
Vinodkumar J Patel,
312/2C, Thervoy Village,
Gummidipoondi - 601 201 ..Petitioner in both writ petitions

Vs.

The Assistant Commissioner (CT),
Gummidipoondi Assessment Circle,
38, GNT Road, Second Floor,
Gummidipoondi. ..Respondent in both writ petitions

Prayer in both W.P.'s: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writs of Certiorari or any other appropriate writ, order or direction to call for the records of the respondent in TIN 33441704285/2013-14, (CST: 101325/2013-14) Para: ST 7251617 AA10, AS No.20 dated 01-06-2017 and TIN 33441704285/2014-15, (CST: 101325/2014-15) Para: ST 7251617 AA02, AS No.4 dated 01-06-2017 respectively and to quash the same.

For Petitioner : Mr. R.Kumar
(in both W.P.'s)

For Respondent : Mr.K.Venkatesh,
(in both W.P.'s) Government Advocate.

WEB COPY

COMMON ORDER

Heard learned counsel for the petitioner and the learned Government Advocate who accepts notice for the respondent.

https://hcservices.ecourts.gov.in/hcservices/

2. By consent of both sides, these Writ Petitions are taken up for disposal at the stage of admission itself.

3. The petitioner, who 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 orders of assessment passed by the respondent under the Central Sales Tax Act for the assessment years 2013-14 and 2014-15.

4. The petitioner is a manufacturer of kraft paper by purchasing the waste paper. The raw materials and the finished goods of the petitioner is stated to fall under the commodity code no.2096 and goods are falling under Sl.No.96, part B of the First Schedule to the Act.

5. The respondent proposed to reverse the Input tax credit under section 19(2) (v) and 19(5) (c) of the TNVAT Act vide notice dated 26.10.2016. The petitioner submitted their objections dated 02.12.2016, stating that the inter-state sales were made out of inter-state purchases and import purchases and requested to drop the proposal. The petitioner also relied upon the decision of the Court in the case of Everest enterprises limited Vs. State of Tamil Nadu and others in WP No.7969 of 2014 dated 06.2.2017, wherein it has been held that the reversal of Input Tax Credit under Section 19(2)(v) of the Act need not to be made by the manufacturers. Though the petitioner relied upon the said decision, the respondent has passed the impugned assessment order, after interpreting the judgment of this Court, which the assessment officer cannot do and he is bound to follow the said Judgment. Therefore the impugned orders are held to be unsustainable.

6. In view of the aforesaid reasons, these writ petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS VI)

WEB COPY

//True Copy//

Sub Assistant Registrar

sli

To

The Assistant Commissioner (CT),
Gummidipoondi Assessment Circle,
38, GNT Road, Second Floor,
Gummidipoondi.

+1cc to Special Government Pleader SR.No.49124
+1cc to Mr.R.Kumar, Advocate SR.No.48842

W.P.Nos.17834 and 17835 of 2017
and
W.M.P.Nos.19349 and 19350 of 2017

GN(31/07/2017)

HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते
WEB COPY