In the High Court of Judicature at Madras

Dated : 25.7.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.18970 of 2017

M/s.Renault Nissan Automotive India
Private Limited, rep.by its Chief
Financial Officer,
Kancheepuram District ...Petitioner

Vs

1. The Joint Commissioner (CT),
   SIPCOT - MoU Cell, No.19A,
   Rukmani Lakshmipathy Road,
   Chennai-8.

2. The Deputy Commissioner (CT-II),
   Office of the Joint Commissioner,
   Large Tax Payer's Unit, 5th Floor,
   Dugar Towers, Marshalls Road,
   Egmore, Chennai-8. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in Proceedings No.Nil dated 04.4.2017, quash the same and further direct the respondents to refund the amount of Input Tax Credit reversed by the petitioner under Proviso to Section 19(2) of the Tamil Nadu Value Added Tax Act, 2006 by applying the judgment of this Court reported in 100 VST 158.

For Petitioner : Mr.R.L.Ramani, SC for Mr.B.Raveendran

For Respondents : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by an order passed by the first respondent, rejecting the petitioner's request for issuance of a supplementary VAT input certificate.

3. The petitioner made an application before the first respondent seeking such a certificate for the relevant assessment year. The petitioner relied upon a judgment of this Court in the case of Everest Industries Limited Vs. State of Tamil Nadu [reported in (2017) 100 VST 158]. However, the first respondent, without taking into consideration as to what is the legal principle laid down in the said decision and as to whether it can be applied to the case of the petitioner, on a misconception of the legal position, rejected the petitioner's application on the ground that the petitioner is not a party to the said judgment.

4. The view taken by the first respondent is erroneous, since this Court, in the said decision, laid down the legal position and every dealer is entitled to rely upon the said judgment, if it is applicable to the facts and circumstances of their case. Thus, the reason assigned by the first respondent in the impugned order is wholly untenable. In fact, an identical reason was given by an Assessing Officer namely the Assistant Commissioner (CT), Pattravakkam Assessment Circle in respect of an assessee namely M/s.ESAB India Limited. That order was challenged by filing W.P.No. 13744 of 2017, which was allowed by this Court by order dated 05.6.2017. In the light of the above, the impugned order calls for interference.

5. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the first respondent for a fresh consideration. The first respondent shall consider the decision in Everest Industries Limited and ascertain as to whether it applies to the petitioner's case on facts and if so, issue necessary tax paid certificate within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

RS

To

1. The Joint Commissioner (CT), SIPCOT - MoU Cell,
   No.19A, Rukmani Lakshmipathy Road, Chennai-8.

2. The Deputy Commissioner (CT-II),Office of
   theJointCommissioner, JointCommissioner,
   Large Tax Payer's Unit, 5th Floor, Dugar Towers,
   Marshalls Road,
   Egmore, Chennai-8.

+1cc to Special Government-Pleader(Taxes),Advocate,S.R.No.52646
+1cc to M/s.B.Raveendran,Advocate,S.R.No.52467

WP.No.18970 of 2017

AR(CS VIII)
CU(28/07/2017)