IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P. Nos. 19260 & 19261 of 2017
&
W.M.P. Nos. 20764 & 20765 of 2017

Tvl. Sri Balaji Industries,
rep. by its Proprietrix,
Ms. Kavitha,
S-91, Poosaripatti Village,
Malaradikuri Post,
Krishnagiri Taluk - 635 002. ..Petitioner in both WPs

Vs.

Commercial Tax Officer,
Krishnagiri Assessment Circle,
Krishnagiri. ..Respondent in both WPs

Prayer: Petitions under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records on the files of the respondent in CST 945850/2013-2014 & 945850/2014-2015 dated 14.06.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner :: Mr.R. Senniappan
For Respondent :: Mr.K. Venkatesh,
Govt. Advocate

COMMON ORDER

Heard Mr.R. Senniappan, learned counsel for the petitioner and Mr.K. Venkatesh, learned Government Advocate for the respondent.

2. With the consent of the learned counsel on either side, the writ petitions themselves are taken up for disposal.

3. The petitioner, who is a registered dealer on the file of the respondent under the provisions of of Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act in short) and the Central Sales Tax Act, 1956 (CST Act in short) is before this Court challenging the orders of assessment under the CST Act, 1956 for

the assessment years 2013-2014 and 2014-2015. The petitioner is not aggrieved, in entirety, by the impugned order as Form "C" declarations produced by the petitioner along with their representation dated 13.06.2017 have been considered by the Assessing Officer. But, the petitioner is aggrieved by the finding recorded by the Officer with regard to the Reversal of Input Tax Credit under Sections 19(2)(v) and 19(5)(c) of TNVAT Act, 2006, for both the assessment years.

4. Admittedly, with regard to the direction for Reversal of Input Tax Credit, under the above referred to provisions, there was no proposal made in the notice dated 30.05.2017. This position, being not in dispute, it has to be held that portion of the impugned order directing Reversal of Input Tax Credit, under the above said provisions, has to be necessarily set aside.

5. Accordingly, the writ petition is allowed and the impugned order is set aside, which is a consequence of directing Reversal of Input Tax Credit under Sections 19(2)(v) and 19(5)(c) of TNVAT Act, 2006. The respondent is directed to issue fresh notice to the petitioner and after receiving their objections, shall afford an opportunity of personal hearing to the petitioner and proceed in accordance with law afresh. No costs. Connected W.M.Ps are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nv/sai

To

Commercial Tax Officer,
Krishnagiri Assessment Circle,
Krishnagiri.

+ 1 cc to Mr. R. Seeniappan, Advocate Sr.64201

W.P. Nos. 19260 & 19261 of 2017

KK(CO)
EU(22/09/2017)