IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.3165 of 2016
and
W.M.P.No.2597 of 2016

M/s.Malpani Alloy and Extrusions Pvt. Ltd.,
Rep. by its Managing Director Ashok Kumar Malpani
Old NO.160, New No.329, Linghi Chetty Street,
2nd Floor, Chennai-600 001. ... Petitioner

Vs.

1. The State of Tamil Nadu
   Rep. by the Secretary to Government
   Commercial Taxes and Registration Department
   Fort St. George, Chennai-600 009.

2. The Assistant Commissioner (CT)
   Gummidipoondi Assessment Circle
   Survey No.343, 11B, No.38, II Floor
   Ganapathy Theatre, Complex, GNT Road,
   Gummidipoondi 601 201. ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the second respondent not to apply Sec.2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013 to the petitioner herein in as much as the petitioner being a manufacturer of goods in the State of Tamil Nadu and consequently annul the reversal of ITC in the monthly returns so far as it relates to the reversal under proviso to Section 19(2)(v) of the Act.

For Petitioner : Mr.T.Pramodkumar Chopda

For Respondents : Mr.K.Venkatesh, Government Advocate

O R D E R

The petitioner seeks for a Mandamus directing the second respondent not to apply Sec.2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013 to the petitioner herein, inasmuch as the petitioner being a manufacturer of goods in the State of Tamil Nadu and consequently annul the reversal of ITC in the monthly returns so far as it relates to the reversal under proviso to Section 19(2)(v) of the Act.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. It is seen that the petitioner has made self assessment and reversed the tax credit, under Section 19(2)(v) of the Tamil Nadu Value Added Tax Act, in respect of the assessment years 2013-2014 and 2014-2015. Now the petitioner seeks for refund of the said amount so reversed by the petitioner, since he is entitled to seek a credit, being the manufacturer. In support of such contentions, the petitioner relied on the decision made by this Court in WP.No.7969 of 2014 dated 06.02.2017.

4. The learned Government Advocate is not disputing the fact that the issue involved in this case is covered by the above said decision in favour of the petitioner.

5. Therefore, it is for the Assessing Officer to consider the request of the petitioner, seeking for refund and pass orders on the same in the light of the order passed in WP.No.7969 of 2014 dated 06.02.2017. Accordingly, this writ petition is disposed of, by directing the second respondent to consider the request of the petitioner for refund in respect of those two assessment years only insofar as the issue relating to Section 19(2)(v) of TNVAT Act, 2006 is concerned. Such exercise shall be done by the second respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
   The State of Tamil Nadu,
   Commercial Taxes and Registration Department,
   Fort St. George, Chennai-600 009.

2. The Assistant Commissioner (CT),
   Gummidipoondi Assessment Circle,
   Survey No.343, 11B, No.38, II Floor,
   Ganapathy Theatre, Complex, GNT Road,
   Gummidipoondi 601 201.

+1cc to the Special Government Pleader Sr.25462
+1cc to Mr.T.Pramodkumar, Chopda, Advocate Sr.25487

W.P.No.3165 of 2016

rj[co]
srg 05/05/2017