IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.41263 of 2016
and
WMP.No.35236 of 2016

M/s.Flowserve Sanmar Ltd.,
Represented by its,
Authorised Signatory,
Mr.R.Krishnan,
No.9, Cathedral Road,
Chennai-600 086. .. Petitioner

.Vs.

The Assistant Commissioner (CT),
Mylapore Assessment Circle,
No.46, Greenways Road,
Chennai-600028.
.. Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for issue a Writ of Certiorari to call for the impugned notice of the respondent, issued in TIN: 33280921098/2014-15 (audit Slip No.8) dated 01.11.2016 and quash the same in so far it seeks to recover the reversal of Input Tax Credit (ITC) for Rs.70,55,067/- of the Respondent, relating to proviso of Section 19(2) of the TNVAT Act 2006.

For Petitioner : Mr.N.Murali
For Respondent : Mr.K.Venkatesh,
Government Advocate



O R D E R

This Writ Petition is filed challenging the notice of proposal only insofar as the reversal of ITC under Section 19(2)(v) of the Tamil Nadu Value Added Tax, Act, 2006, is concerned. In other words, the petitioner is not questioning the impugned notice in respect of other issues, as the petitioner is willing to agitate the same before the Assessing Authority insofar as those issues are concerned.

2. Heard Mr.N.Murali, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent. By consent of the parties, the main writ petition itself is taken up for final disposal at the admission stage itself.

3. The challenge made in this writ petition is against the notice of proposal, only insofar as the issue of ITC reversal under Section 19(2)(v) of the said Act is concerned. It is submitted by the learned counsel for the petitioner that since this writ petitioner is a manufacturer, they are entitled to take the credit under Section 19(2)(v) of the said Act and therefore, there is no necessity for issuing notice of proposal as against the petitioner. In respect of such issue, the learned counsel relied on the decision made by this Court in W.P.No.7969/2014 dated 06.02.2017.

4. On the other hand, the learned Government Advocate submitted since the challenge is made against the notice, the petitioner can always give their objections and such objections will be considered in the light of the order already passed by this Court in W.P.No.7969/2014 dated 06.02.2017.

5. Considering the fact that this writ petition is filed only against the notice and that the petitioner can always file their objections before the Assessing Officer, I am of the view that even in respect of the issue relating to (ITC) input tax credit reversal under Section 19(2)(v) of the said Act, the petitioner can raise their objections also by relying on the recent decision made by this Court in W.P.No.7969/2014 dated 06.02.2017. If any such objection is filed, the Assessing Authority shall consider such issue in the light of the said order passed by this Court. Accordingly, this writ petition is disposed of, by granting two weeks time to the petitioner to file their reply before the respondent from the date of receipt of a copy of this order and on receipt of such reply, the Assessing Officer shall pass appropriate orders insofar as the issue of ITC reversal u/S 19(2)(v) of the said Act, in the light of the order already passed by this Court in W.P.No.7969/2014 dated 06.02.2017, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.



-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

KP

To

The Assistant Commissioner (CT),
Mylapore Assessment Circle,
No.46, Greenways Road,
Chennai-600 028.

+1 cc to M/s.N.Murali Advocate sr 40941
+1 cc to the Government Pleader Taxes sr 40922

W.P.No.41263 of 2016

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