BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD)No.12866 of 2017

M/s.Rajapalayam Mills Limited,
Rep. by its Vice President-Finance,
Rajapalayam Mills Premises,
P.A.C.Ramasamy Raja Salai,
Post Box No.1,
Rajapalayam – 626 117. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Rajapalayam – 1 (C). ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondent herein to consider the representation dated 10.06.2017, filed by the petitioner and refund the amount of Input Tax Credit reversed by the petitioner under Proviso to Section 19 (2) of the TNVAT Act, 2006, by applying the judgment of this Court in W.P.No.7969 of 2014 etc. batch cases, dated 06.02.2017.

For Petitioner : Mr.S.Raja Jeya Chandra Paul
For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

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ORDER

Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondent. By consent, the Writ Petition is taken up for final disposal.

2.The petitioner has come to this Court seeking for issuance of a Writ of Mandamus, directing the respondent herein to consider the representation dated 10.06.2017, and 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 [in short “the TNVAT Act, 2006”], in the light of the order passed by this Court, dated 06.02.2017, in W.P.No.7969 of 2014 etc. batch.

3.The learned counsel for the petitioner submitted that the petitioner is a manufacturer of Yarn and also a registered dealer on the file of the respondent herein under the TNVAT Act, 2006.

4.In the above background, the claims of the petitioner is that they have reversed the Input Tax Credit under Section 19(2) of the TNVAT Act, 2006 for the month of November 2013 to March 2014. Recently, this Court in the case of M/s. Everest Industries Limited, Rep. by its Senior Manager – Finance, Podanur Post, Coimbatore – 641 023 Vs. The State of Tamil Nadu, Rep. by its Secretary, Commercial Taxes Department, Fort St. George, Chennai and another [W.P.Nos.7969 of 2014 etc. batch, dated 06.02.2017] reported in (2017) 100 VST 158 (Madras), has held that the Proviso to Section 19(2) of the TNVAT Act, 2006 inserted with effect from 11.11.2013 will apply only when inputs purchased locally within the State are sold as such on inter-state basis as prescribed under Section 19(2)(v) of the TNVAT Act, 2006 and will not apply when inputs purchased within the State are used in the manufacture of other goods within the State or for any other purpose prescribed under sub-clauses (i) to (iv) or (vi) of Section 19(2) of the TNVAT Act, 2006. As the petitioner has used the inputs purchased within the State on payment of tax for the purpose specified in sub-clause (ii) of Section 19(2) of the TNVAT Act, 2006, they are not liable to reverse the Input Tax Credit to the extent of 3% under Proviso to Section 19(2) of the TNVAT Act, 2006.

5.In view of the above subsequent event, the petitioner having reversed Input Tax Credit in the monthly returns filed for the month of November 2013 to March 2014, filed a petition, dated 10.06.2017, enclosing a copy of the above-mentioned order of this Court and requested the respondent to refund a sum of Rs.60,82,375/- reversed by the petitioner under Section 19(2)(v) of the TNVAT Act, 2006 for the year 2013-2014. But, till date, the same has not been considered by the respondent. Therefore, the petitioner has come to this Court seeking a direction to the respondent, to consider the representation, dated 10.06.2017 and refund the amount of Input Tax Credit reversed by the petitioner under Proviso to Section 19(2) of the TNVAT Act, 2006.

6.In support of his submission, the learned counsel appearing for the petitioner placing reliance on a similar order, dated 29.06.2017, passed by this Court in W.P.No.16349 of 2017 [M/s. Best Pumps (India) Pvt. Limited, Rep. by its Director, Coimbatore Vs. The Assistant Commissioner (CT), Velandipalayam Assessment Circle, Coimbatore], requested this Court to give a direction to the respondent herein to consider the representation of the petitioner, dated 10.06.2017, and refund the amount of Input Tax Credit reversed by them.

7.Mr.R.Karthikeyan, learned Additional Government Pleader taking notice for the respondent sought time to consider the representation of the petitioner, dated 10.06.2017, and refund the amount of Input Tax Credit reversed by them under Proviso to Section 19(2) of the TNVAT Act, 2006, in the light of the order passed by this Court, dated 06.02.2017, in W.P.No.7969 of 2014 etc. batch, reported in (2017) 100 VST 158 (Madras).

8.Considering the limited scope of the prayer sought for in the Writ Petition, without going into the merits of the case, this Court directs the respondent to consider the representation of the petitioner, dated 10.06.2017, in the light of the order passed by this Court, dated 06.02.2017, in W.P.No.7969 of 2014 etc. batch, reported in (2017) 100 VST 158 (Madras) and pass appropriate orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

9.With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

The Assistant Commissioner (CT),
Rajapalayam - 1 (C).

+One cc to M/s.S.Raje Jeya Chandra Paul, Advocate, SR.No.64864

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