BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.09.2017**

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD)No.16501 of 2017

Tvl. Feeds and Condiments Industries,
Rep. by its Partner T.K.S.P.Sankara Pandian,
94/1E, Kathalampatti Street,
Virudhunagar - 626 001. : Petitioner

Vs.

The Assistant Commissioner (CT) - II,
Virudhunagar. : Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, for a direction to the respondent herein to refund the Input Tax Credit reversed vide his order passed in Tin No:33145741493/2014-2015 dated 02.09.2016 pursuant to the petitioner's petition dated 20.04.2017 in the light of the law laid down by this Court in the case of Everest Industries Limited Vs. State of Tamil Nadu, reported in (2017) 100 VST 158 holding that the Proviso inserted to Section 19(2) of the Tamil Nadu Value Added Tax Act, 2006 by Act No.28 of 2013 was not applicable to manufacturers.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R
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By consent of both parties, the writ petition itself is taken up for final disposal.

2.The petitioner is an assessee on the file of the respondent herein and doing business in Tin Containers. For the assessment year 2014 - 2015, the petitioner reported a total and taxable turnover of Rs.73,17,808/- by filing monthly returns, claiming and adjusting the Input Tax Credit available to them as per the Tamil Nadu Value Added Tax Act, 2006 [hereinafter referred to 'the Act'] and the Rules framed thereunder. The assessment for the year 2014-2015 was completed by accepting the petitioner's reported total and taxable turnover as per Section 22 (2) of the Act, vide proceedings dated 31.10.2015. Subsequently, the respondent issued a notice on 26.07.2016, proposing to reverse the Input Tax Credit.

3.Aggrieved by the reversal of the Input Tax Credit, the petitioner gave a representation under Section 84 of the Act on

20.04.2017, seeking refund of the Input Tax Credit reversed, by rectifying the error made in the assessment order dated 02.09.2016. Since, the said representation is pending consideration, the petitioner has come to this Court with the present writ petition.

4.The learned Additional Government Pleader appearing for the respondent keeping in mind that the representation filed by the petitioner under Section 84 of the Act on 20.04.2017 is pending consideration, sought four weeks time to pass appropriate orders on merits on the pending representation.

5.Considering the limited scope of the prayer sought for by the petitioner, this Court without going into the merits of the matter hereby directs the respondent to consider the representation filed by the petitioner under Section 84 of the Act within a period of four weeks from the date of receipt of a copy of this order.

6.The Writ Petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Assistant Commissioner (CT) – II,
Virudhunagar.

+1cc to Mr.A.CHANDRASEKARAN Advocate in SR. No. 75908
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 76160

MR
JS/SV.MMS/SAR.1/21.09.2017/2P-4C

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