IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A Nos.1808 to 1810 of 2015,
M.P.Nos.1 of 2015 (3 Mps)

M/s.SRC Projects (P) Ltd.,
Rep. by its Chief Executive & Managing Director
M.Paramasivam. ... Appellant

-Vs-

1.The Assistant Commissioner (CT)
Salem Town Assessment Circle,
Commercial Taxes Buildings,
No.17, Pichard's Road, Asthampatti,
Salem - 636 007.

2.The Joint Commissioner (CT)
Commercial Taxes Buildings,
No.17, Pichard's Road, Asthampatti,
Salem - 636 007. ... Respondents

PRAYER: Writ Appeals filed under Clause 15 of Letters Patent against the order passed in W.P Nos.30954 to 30956 of 2015 respectively dated 24.11.2015.

WP.No. 30954 to 30956/2015 Prayer: Petitions are filed to issue a Writ of Certiorarified mandamus to To call for the records on the file of the first respondent in TIN 33742661801/2011-12 ,TIN 33742661801/2012-13 ,TIN 33742661801/2013-14 and to quash the impugned order dated 11/09/15 and to direct the first respondent to allow Input Tax Credit on the JCB Excavators spares (excavators and front end loaders).

For Appellant : Mr.V.Sundareswaran

For Respondents: Mr.V.Hari Babu
Spl.Govt.Pleader (Taxes)

C O M M O N   J U D G M E N T

[Judgment of the Court was delivered by K.K. SASIDHARAN,J.]

The writ petitions filed by the appellant challenging the proceedings of the first respondent reversing the "Input Tax Credit" and levying penalty were dismissed by the learned single Judge by a common order, dated 24 November 2015, primarily on the ground of availability of statutory remedy.

2. We have heard the learned counsel for the appellant in detail.

3. When a question was posed as to why statutory appeals were not filed and grounds were made out by the appellant to bypass the statutory remedy, the learned counsel for the appellant fairly submitted that the appellant should be permitted to file appeal by extending the period of limitation. In view of the said submission, we deem it fit to grant liberty to the appellant to file statutory appeals before the appropriate Appellate Authority.

4. The appellant is given four weeks' time from the date of receipt of a copy of this judgment to file appeal before the Appellate Authority. The appeal should be entertained by the Appellate Authority and should be decided on merits and as per law without rejecting it on the ground of limitation, in view of the fact that the appellant has filed the writ petitions within the prescribed period of limitation. Status quo as on today shall be maintained till the appeals are filed by the appellant taking into account the period indicated above.

5. The appellant is given liberty to file interlocutory applications for appropriate interim orders during the currency of the appeals taking into account the interim protection given by this Court. The question of returning the Bank Guarantee given by the appellant pursuant to the interim order granted by this Court would depend upon the orders to be passed by the Appellate Authority in the interlocutory applications for stay pending disposal of the appeals.

6. The intra court appeals are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

svki

To

1.The Assistant Commissioner (CT)
  Salem Town Assessment Circle,
  Commercial Taxes Buildings,
  No.17, Pichard's Road, Asthampatti,
  Salem - 636 007.

2.The Joint Commissioner (CT)
  Commercial Taxes Buildings,
  No.17, Pichard's Road, Asthampatti,
  Salem - 636 007.

+3cc to Mr.V.Sundareswaran, Advocate SR.No.20617

W.A Nos.1808 to 1810 of 2015

LRS(CO)
GN(26/03/2018)