IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE **S.MANIKUMAR**
and
THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**

W.A.No.1720 of 2017
and CMP No.22005 of 2017

1. The Joint Commissioner (CT)
SIPCOT - MOU Cell, No.19A,
Rukmani Lakshmipathy Road,
Chennai - 8.

2. The Deputy Commissioner (CT-II),
Office of the Joint Commissioner (CT),
Large Tax Payer's Unit, 5th Floor,
Dugar Towers, Marshalls Road,
Egmore, Chennai - 8. .. Appellants

versus

M/s.Renault Nissan Automotive India Private Ltd.,
Rep. by its Chief Financial Officer,
Kancheepuram District. .. Respondent

Writ Appeal filed against the order dated 25.07.2017 in W.P.No.18970 of 2017.

For Appellants : Mr.N.Vijaynarayanan
Advocate General

Assisted by Mr.J.Ramesh
Govt. Advocate

For Respondent : Mr.B.Raveendran

JUDGMENT

(Order of the Court was made by **S.MANIKUMAR, J.**)

Proceedings impugned in W.P.No.18970 of 2017 passed by Joint Commissioner (CT), SIPCOT-MOU Cell, Chennai, addressed to M/s.Renault Nissan Automotive India Private Limited, Plot No.1, SIPCOT Industrial Park, Oragadam Mathur (Post), Sriperumputhur, Kancheepuram District is extracted hereunder.

"Sir,

Sub: Commercial Taxes Department - MOU Cell - ITC Refund - Tax paid Certificate issued - High Court decision - Supplementary Certificate requested - Regarding.

Ref: 1. Tax Paid Certificate dated 30.12.2016 issued for the year 2014-15.
2. Letter dated 14.03.2017 received from M/s.Renault Nissan Automotive India (P) Ltd.

Tvt.Renault Nissan Automotive India (P) Ltd., vide reference 2nd cited has requested supplementary certificate for Input VAT Certificate based on the decision of Honourable High Court of Madras in the case of M/s.Everest Industries Ltd Vs. State of Tamilnadu (WP.No.7969 of 2014 dated 06.02.2017)

Some of the dealers have raised the issue of reversal of ITC u/s.19(2)(v) of TNVAT Act 2016 before Honourable High Court of Madras.

The Honourable High Court of Madras has delivered its judgment on 06.02.2017 in WP.No.7969 of 2014.

The Tax Paid Certificate has been issued prior to the decision of Honourable High Court of Madras. On perusal of above judgment reveals that the present dealer is not a party to the above judgment. Hence, the said dealer can't claim the relief based on the above judgment. At this juncture the issuance of supplementary certificate does not arise."

2. When correctness of the same was challenged, writ Court following a common order made in W.P.No.13744 of 2017 dated 05.06.2017 in Everest Industries Limited Vs. State of Tamilnadu, reported in 2017 (100) VST 158, set aside the proceedings dated 04.04.2017 of the Joint Commissioner (CT), SIPCOT-MOU Cell, Chennai, and remanded the matter to him for fresh consideration. Joint Commissioner (CT), SIPCOT-MOU Cell, Chennai, was further directed to consider the decision in Everest Industries Limited and ascertain as to whether it applies to the case of the respondent on hand and if so, issue necessary tax paid certificate within a period of eight weeks from the date of receipt of a copy of this order.

3. Though, Mr.N.Vijaynarayanan, learned Advocate General, made submissions distinguishing the applicability of Everest's case to the case on hand, we are not inclined to delve into the same, for the reason, that writ Court has only directed the Joint Commissioner (CT), SIPCOT-MOU Cell, Chennai, to consider the decision in Everest's case and arrive at a conclusion as to whether the said judgment applies to the case of the respondent or not, and to pass appropriate orders, as stated supra.

4. There is no manifest illegality in the order impugned in the instant appeal. Order dated 25.07.2017 made in W.P.No.18970 of 2017, is sustained. As directed by the writ Court, matter is remanded to the Joint Commissioner (CT), SIPCOT-MOU Cell, Chennai, who shall pass orders within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above directions, the writ appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

[S.M.K., J.] [V.B.S., J.]
12.03.2018

Index : Yes/No.
Internet : Yes
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