IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2018

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.Nos.4754 & 4755 of 2018 &
W.M.P. Nos.5869 & 5970 of 2018

Taurus Hides Private Limited
Rep by its Director
Kavitha Karthikeyan
808/4B, Thiruthani Road
Vannivedu Village
Walajapet ..Petitioner in both WPs

v.

The Assistant Commissioner (ST)
Ranipet Assessment Circle
Ranipet ..Respondent in both WPs

W.P.No.4754/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the respondent in TIN 33131025698/2013-14, dated 9.1.2018 and quash the same in so far as it relates to raising of demand of ITC of Rs.7,12,444/- for lapse of ITC under Article 226 of the Constitution of India

W.P.No.4755/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the respondent in TIN 33131025698/2014-15, dated 9.1.2018 and quash the same in so far as it relates to raising of demand of ITC of Rs.40,46,810/- for lapse of ITC under Article 226 of the Constitution of India.

For Petitioner : Mr.R.Kumar

For Respondents : Mr.M.Hariharan
Addl. Government Pleader (T)

COMMON ORDER

Heard Mr.R.Kumar, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader (T) for the respondent.

2. In these writ petitions, the petitioner has challenged the orders passed by the respondent dated 09.01.2018 relating to the assessment years 2013-14 and 2014-15.

3. The respondent issued notice dated 13.11.2017 alleging that the petitioner has incorrectly claimed input tax credit and also there is double claim of input tax credit and hence, proposed to levy the same and also levied penalty.

4. The petitioner submitted a detailed reply dated 13.12.2017 and on receipt of the reply, the respondent neither granted an opportunity of personal hearing nor called for books of accounts but, raised a demand on the petitioner to the tune of Rs.7,12,444/- for the assessment year 2013-14 and Rs.40,46,810/- for the assessment year 2014-15.

5. It is admitted that that there is an excess input tax credit to the credit of the petitioner. Even assuming that the respondent wanted to reverse the input tax credit, he ought to have deducted the same from the available credit of the petitioner as on 30.06.2017.

6. The learned counsel for the petitioner refers to Section 19(18) of the Tamil Nadu Value Added Tax Act, 2006, which states that the excess of input tax credit, if any, after adjusting shall be carried forward to the next year or refunded.

7. Since the Goods and Service Tax Act came into force with effect from 01.07.2017, the question of carrying forward does not arise. The petitioner is entitled to maintain an application for refund. In my considered view, the respondent misdirected himself in the manner in which the proceedings should have been conducted, resulting in, an erroneous order. Had the respondent afforded an opportunity of personal hearing, these writ petitions itself could have been avoided and proper assessment orders could have been passed.

8. Thus, for the above reason, this court is of the view that the matter requires to be remanded to the respondent for fresh consideration.

9. Accordingly, the writ petitions are allowed and the impugned orders are set side and the matters are remitted back to the respondent for fresh consideration, who shall fix a date for personal hearing, consider the objections filed by the petitioner and redo the assessment in accordance with law. The other issues, against which the petitioner has preferred an appeal, shall be agitated before the Appellate Authority. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CO)

//True Copy//

Sub Assistant Registrar

rj

To

The Assistant Commissioner (ST)
Ranipet Assessment Circle
Ranipet

+2cc to Mr.R.Kumar28524,28525 Advocate, S.R.No.

+1cc to the Government Pleader, S.R.No.28540

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RRK(23/04/2018)