

In the High Court of Judicature at Madras

Dated : 06.07.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.6244 of 2009

&

M.P.No.2 of 2009

M/s.Summer India Textile Mills (P) Ltd.,
Rep. by its Managing Director
A.R.Aasaithambhee
P.B.No.12, 176/2-A
Kozhikkalnatham Road
Tiruchengode-637 211
Erode District

... Petitioner

Vs

The Commercial Tax Officer
Tiruchengode Town
Tiruchengode
Erode

... Respondent

Prayer in W.P.No.7290 of 2017:Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent in TIN No.33663182153/07-08 dated 16.09.2008 quash the same insofar as it restricts the claim of refund of ITC made by the petitioner as per the application filed in Form W dated 20.06.2008.

For Petitioner : Mr.S.Rajasekar

For Respondent :Mr.G.Dhanamadhri
Government Advocate

ORDER

Heard Mr.S.Rajasekar, learned counsel for the petitioner and Mr.G.Dhanamadhri, learned Government Advocate appearing for the respondent.

2. Learned counsel appearing on either side agree that the issue raised in this writ petition is covered by a decision of this Court in Summer India Textiles Mills (P) Ltd., Vs. Commercial Tax Officer, Tiruchengode, Erode reported in [2013] 61 CST 218 (Mad).

3. The learned Government Advocate pointed out that an opportunity may be given to the Department to proceed against the selling dealer.

4. Considering the facts and circumstances, the writ petition is allowed and the impugned orders with regard to rejection of refund of tax alone is set aside and liberty is granted to the respondent to proceed against the selling dealer, if so advised, in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

gpa/msrm

To

The Commercial Tax Officer
Tiruchengode Town
Tiruchengode, Erode.

+ 1 cc to Mr. R. Hemalatha, Advocate Sr. 44347

+ 1 cc to the Government Pleader Sr. 44177

WP.No.6244 of 2009 &
M.P.No.2 of 2009

(CS-VII)
EU(13/07/2018)

सत्यमेव जयते

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