IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.12.2018

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THE HONOURABLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.24777 of 2018
and
WMP.No.28804 of 2018

M/s.Tube Investments of India Limited
234, Dare House,
N.S.C.Bose Road,
Chennai 600 001. ...Petitioner

Vs.

1.Deputy Commissioner (ST)-I
Large Tax Payers Unit,
5th Floor, Dugar Towers,
No.34, Marshalls Road
Chennai 600 008.

2.Commissioner of State Taxes,
Chepauk, Chennai 05.

3.Government of Tamil Nadu,
Represented through its Secretary,
Department of Commercial Taxes,
Tamil Nadu Secretariat. ...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in CST/82841/2018-19 dated 19.07.2018 passed by the first respondent and to quash the same and direct the first respondent to allow the amendment in their CST Registration certificate made by the petitioner dated 22.05.2018.

For Petitioner : Mr.Ragavan Ramabadran

For Respondents : Mr.Mohammed Shaffiq R1 to R3
Special Government Pleader (Tax)

ORDER

The petitioner is aggrieved against the proceedings dated 19.07.2018 issued by the first respondent, wherein and whereby, it was informed that the petitioner's request to include HSD as a clause of goods used for generation of electricity with effect from 01.07.2017 in the annexure to the CST Registration Certificate cannot be approved.

2.The same issue was already considered by this Court in a batch of cases made in W.P.No.19458 of 2018 etc., dated 26.10.2018 and this Court allowed those writ petitions by holding that as long as the petitioners are having valid Registration Certificate and as long as under Section 8(3) (b) of Central goods and Service Tax Act, as such is holding the field, the respondents are not entitled to deny the benefit derived out of such provision of law to the petitioners therein, provided they fall under any of the following categories in using the goods so purchased, viz.,

a) in the manufacture of processing of goods for sale;

b) in the telecommunication network;

c) in mining;

d) in the generation or distribution of electricity or any other form of power.

Accordingly, this Court, after allowing those writ petitions, directed all those petitioners to download 'C' Forms for the purpose of purchasing petroleum products against the issuance of 'C' declaration forms.

3. Since the reasons stated in the present impugned proceedings are the similar to the one in the above said batch of cases, this Court is inclined to allow this writ petition and set aside the impugned proceedings with consequential direction to permit the petitioner to download 'C' Forms.

4. The learned Special Government Pleader for the respondents, however submitted that there is a dispute with regard to the Registration in the name of the petitioner.

5. If the Revenue is having any dispute with regard to the Registration in the name of the petitioner, it is open to them to initiate fresh proceedings in respect of such

registration issue in accordance with law. As this Court has clearly held in the said batch of cases that only such of those are having valid registration are entitled to the benefit, it is for the respondents to initiate proceedings against the petitioner, if they are not having any valid registration.

6. With the above observation, the writ petition is allowed and the impugned proceeding is set aside with a consequential direction to the respondents to permit the petitioner to download 'C' Forms. No costs. Consequently, connected miscellaneous petition is closed.

11.12.2018

Index : Yes/No
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To

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K.RAVICHANDRABAABU,J.
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