IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.01.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.16619 to 16624 of 2013
and
M.P.Nos.1 to 1 of 2013

W.P.No.16619 to 16624 of 2013 :-

M/s. Kone Elevator India Ltd.,
rep. by its Company Secretary,
Sri. V.S.Krishnakumar ...Petitioner in all WPs

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Commercial Taxes Department,
Fort St. George, Chennai.

2. The Assistant Commissioner (CT)
Royapettah II Assessment Circle,
Chennai. ...Respondents in all WPs

Writ Petitions, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the second respondent,

1. in TIN No.33920781648/2006-07, and to quash the proceedings, dated 30.03.2013 issued therein (in WP.16619/2013)

2. in TIN No.33920781648/2007-08, and to quash the proceedings, dated 30.03.2013 issued therein (in WP.16620/2013)

3. in TIN No.33920781648/2008-09, and to quash the proceedings, dated 30.03.2013 issued therein (in WP.16621/2013)

4. in TIN No.33920781648/2009-10, and to quash the proceedings, dated 30.03.2013 issued therein (in WP.16622/2013)

5. in TIN No.33920781648/2010-11, and to quash the proceedings, dated 30.03.2013 issued therein (in WP.16623/2013)

6. in TIN No.33920781648/2011-12, and to quash the proceedings, dated 30.03.2013 issued therein (in WP.16624/2013)

For Petitioner in all W.Ps :Mr.B.Raveendran

For Respondents in all W.Ps. :Mr.M. Hari Haran
Additional Government Pleader

COMMON O R D E R

Heard Mr.B.Raveendran, the learned counsel appearing for the petitioner and Mr.M. Hari Haran, the learned Additional Government Pleader for the respondents.

2. Since the issue involved in these Writ Petition is identical in nature, they were taken up together and disposed of vide this common order.

3. The petitioner has filed these Writ Petitions, challenging the notices issued by the second respondent, dated 30.03.2013, proposing to revise the turnover and reverse the Input Tax Credit (ITC) availed by the petitioner, by placing reliance on the decision of the Hon'ble Supreme Court, in the case of State of Andhra Pradesh Vs. Kone Elevators (India) Ltd., reported in [(2005) 140 STC 22 (SC)]. The correctness of the said decision was decided by the Larger Bench of the Hon'ble Supreme Court, in the assessee's own case, in the case of Kone Elevators (India) Ltd., Vs. State of Tamil Nadu and others, reported in [(2014) 71 VST 1 (SC)]. In the said decision, the Hon'ble Supreme Court held that the decision reported in [(2005) 140 STC 22 (SC)] does not carefully lay down the law and accordingly, the same was overruled. Ultimately, the assessments, which were framed, were set aside.

4. In the cases on hand, the petitioner has approached this Court, at the stage of issuance of revision notice. Thus, by applying the decision rendered in the case of Kone Elevators (India) Ltd., Vs. State of Tamil Nadu and others, reported in [(2014) 71 VST 1 (SC)], the present Writ Petitions are allowed, the impugned orders are quashed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

sd/dna
To

1. The Secretary,
   The State of Tamil Nadu,
   Commercial Taxes Department,
   Fort St. George, Chennai.

2. The Assistant Commissioner (CT)
   Royapettah II Assessment Circle,
   Chennai.

+1cc to Mr.B.RAVEENDRAN, Advocate, S.R.No. 5191

Writ Petition Nos.16619 to 16624 of 2013

NMI(CO)
TR(12/02/2018)