IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.12.2018
CORAM
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.32091, 32093, 32095 & 32097 of 2018
and
W.M.P.Nos.37340, 37344, 37346, 34348 of 2018

M/s.New Venus Builders and Promoters Pvt. Ltd.,
Rep. by its Director
No.19, Thacker Street,
Purasawalkam, Chennai-600 084. ... Petitioner
(in all WPs)

vs.

The Assistant Commissioner (CT)
Purasawalkam Assessment Circle
Chennai-600 108. ..Respondent
(in all WPs)

Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to permit the petitioner to file statutory appeal against the orders of the respondent in RC.892/2010/A4/2006-07, R.C.892/2010/A4/2007-08, TIN.33410483217 /2008-09, TIN.33410483217/2009-10 dated 16.09.2011 as per the directions of the Hon'ble Madras High Court in batch cases for Section 19(11) of TNVAT Act in W.A.No.902 and others which was confirmed by the Apex Court in the batch case in M/s.ALD Automotive Private Ltd., Vs. The Commercial Tax Officer in Civil Appeal Nos.10412 to 10413 of 2018 and others.

For Petitioner : Mr.C.Baktha Siromoni
(in all Wps)

For Respondent : Mr.M.Hariharan
Additional Government Pleader(T)
(in all WPs)

C O M M O N   O R D E R

All these Writ Petitions are filed challenging the orders of assessment dated 16.09.2011 passed in respect of the assessment years 2006-2007 to 2009-2010.

2. Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

3. Heard both sides.

4. The issue involved in the assessment orders is in respect of ITC on purchases claimed under Section 19(11) of the Tamil Nadu Value Added Tax Act, 2006. It is admitted by both sides that the said issue is now settled by the decision of the Apex Court in Civil Appeal Nos.10412-10413 of 2018 dated 12.10.2018. It is further stated that the Apex Court while upholding the validity under Section 19(11) of the TNVAT Act, 2006, has also granted liberty to the respective Assessees to file an appeal before the concerned Appellate Authority against the order of assessment. Therefore, the learned counsel seeks such liberty to file an appeal before the Appellate Authority.

5. First of all, these assessment orders were made as early as on 16.09.2011 and the petitioner has approached this Court after a period of eight years. Secondly, it is stated that the issue involved in these cases has already been decided by the Apex Court in the above said case, wherein liberty is granted to file appeal. Therefore, it is for the petitioner to work out their remedy only before the next fact finding authority viz., Appellate Authority, by filing a statutory appeal.

6. Accordingly, all these writ petitions are disposed of, only by granting liberty to the petitioner to file such statutory appeal before the Appellate Authority within a period of two weeks from the date of receipt of a copy of this order, however, by complying with other statutory requirements for filing such appeal. If any such appeal is filed within the time stipulated supra, the Appellate Authority shall consider the same and pass orders on its own merits and in accordance with law, without reference to the period of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mk

To

The Assistant Commissioner (CT)
Purasawalkam Assessment Circle, Chennai-600 108.

+1cc to the Government Pleader(Taxes), S.R.No. 84190

WP. Nos.32091, 32093,
32095 & 32097 of 2018

SVN(CO)
rrs 27/12/2018