IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.09.2019
CORAM
THE HONOURABLE Dr. JUSTICE ANITA SUMANTH
W.P.Nos.24301 & 27818 of 2007

Tvl.Bajaj Bros.
Rep by Proprietor
Amit Bajaj ...Petitioner in W.P.No.24301 of 2007

Tvl.Cauvery Medicals
123A, Anna Salai
Arcot ...Petitioner in W.P.No.27818 of 2007

Vs.

The Deputy Commercial Tax Officer,
Office of the Commercial Tax Officer
Vellore Rural, Vellore ...Respondent in WP.No.24301 of 2007

The Deputy Commercial Tax Officer,
Arcot ...Respondent in WP.No.27818 of 2007

Prayer:- WP.24301/2007: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents dated 19.06.2007 in his proceeding in TIN.No.33764322042 for the assessment year 2007-08 quash the same, and consequently direct the respondent to allow the input tax credit on the closing stock as on 31.03.2007 by permitting the petitioner to avail the same in the transactions effect on or after 01.04.2007.

Prayer:- WP.NO.27818/2007: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents dated 31.07.2007 in his proceeding in TIN.No.33544581250 quash the same, and consequently direct the respondent to allow the input tax credit on the closing stock as on 31.03.2007 by permitting the petitioner to avail the same in the transactions effected on or after 01.04.2007.

For Petitioners: Mr.K.Mahendran for
M/s.MC Gan Law Firm in both WPs
For Respondents: Mr.V.Haribabu,
Additional Government Pleader
in both WPs

C O M M O N   O R D E R

The writ petitioners seek a Certiorarified Mandamus in respect of order dated 19.06.2007 and 31.07.2007 and a direction to the respondent to allow Input Tax Credit (ITC) on the closing stock as on 31.03.2007 by permitting the petitioners to avail the same in the transactions effected on or after 01.04.2007.

2. By communication dated 24.01.2007, the petitioner in WP.No.24301 of 2007 had opted for composition in terms of Section 3(4)(a) of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'). Notice dated 30.04.2007 was issued by the Assessing Authority notifying the petitioner that input tax credit would not be available on the stock held by it.

3. The assessee/petitioner, by letter dated 30.05.2007 pointed out that what was sought was credit for ITC in respect of closing stock as on 31.03.2007. The petitioner also confirms that it has opted out of the composition scheme for the periods 01.04.200 onwards. The impugned order however, holds the petitioner ineligible for the credit sought.

4. No relevant factual confirmation is available before this Court in regard to whether or when the petitioner has opted for and out of the scheme of composition. Furthermore, no counter has been filed. Neither party is ready and only seek an adjournment of the matter. Since this writ petition is of the year 2007, I am not inclined to adjourn this matter any further. I simply reiterate the legal position that, as per the proviso to Section 3(4)(a) of the Act, a dealer is not entitled to ITC on goods purchased by him for periods when it has opted for composition under Section 3(4) (a) of the Act.

5. With these observations, these writ petitions are closed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commercial Tax Officer,
Office of the Commercial Tax Officer
Vellore Rural, Vellore

2.The Deputy Commercial Tax Officer,
Arcot

+2cc to M/s.MC Gan Law Firm, Advocate sr.80551, 80552
+1cc to Special Government Pleader(Taxes) sr.80347

W.P.No.24301 & 27818 of 2007

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