IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 02.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.19666 & 19667 of 2009

K.Singaravel ...Petitioner in all WPs

Vs

The Commercial Tax Officer,
Thiruthuraipoondi,
Tiruvarur District. ...Respondent in all WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the files of the respondent in TIN No.33193881442/07-08 (WP.No.19666/2009) and TIN No.33193881442/06-07 (WP.No.19667/2009) dated 18.08.2009 and quash the same as being contrary to the principles of natural justice, without jurisdiction and authority of law.

For Petitioner : Mr.V.C.Arun
(in all WPs) for Mr.K.Soundararajan

For Respondent : Mr.Mohammed Shaffiq,
(in all WPs) Special Government Pleader

C O M M O N O R D E R

The order under challenge in the present writ petitions is rejection of the petitioner's claim for reversal of irregular claim of ITC on the ground that the time prescribed under Section 19(11) of the Value Added Tax Act, is mandatory.

2. This issue has already been decided by the Hon'ble Apex Court in the case of ALD Automotive Pvt. Ltd. vs Commercial Tax officer (Now upgraded as the Assistant Commissioner (CT)) and others reported in [2018] 58 GSTR 468 (SC), wherein it has been held that the authorities cannot extend the period for claiming input tax credit under Section 19(11). The relevant portion of the order reads as follows:

> "This Court in the above case clearly laid down that whether particular provision is mandatory or directory has to be determined on the basis of object of

particular provision and design of the statue. The period of 10 days in submitting the report of the public analyst was held to be directory for the reason that on the negligence of those to whom public duties are entrusted no one should suffer. Such interpretation should not be put which may promote the public mischief and cause public inconvenience and defeat the main object of the statue. The interpretation of the rule 9(j) in the above case was on its own statutory scheme and has no bearing in the present case. We, thus, are of the view that the time period as provided in section 19(11) is mandatory."

3. In view of the above decision, I do not find any infirmity in the order passed by the respondent herein. Hence, the Writ Petitions are dismissed. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

hvk

To

The Commercial Tax Officer,
Thiruthuraipoondi,
Tiruvarur District.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.55560
+1cc to the Government Pleader(Taxes), S.R.No.55484

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PA(CO)

RRS(20/08/2019)