IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 14.08.2019
Coram
THE HONOURABLE MR. JUSTICE M.SUNDAR
W.P.Nos.23739 & 23741 of 2019

Tenneco Automotive India Pvt. Ltd
Represented by Sr.Executive Finance
No.122, SIPCOT Industrial Complex
Hosur - 635 126.

... Petitioner in both W.Ps.

vs.

The Assistant Commissioner (CT)
Hosur (North)
Krishnagiri Road, Sanadandiram
Hosur - 635 109.

... Respondent in both W.Ps.

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in orders dated 30.10.2016 and 30.03.2017 in CST Nos.1046115/2013-14 and 1046115/2014-15 and quash the same in so far as it seeks to adjust inputs Tax Credit under Section 19(2)(v) and direct the respondent to grant refund to the petitioner as requested in petitioner's letter dated 21.03.2017 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner (In both W.Ps) : Mr.Adithya Reddy
For Respondents (In both W.Ps) : Ms.G.Dhanamadhri, Government Advocate.

COMMON ORDER

Mr.Adithya Reddy, learned counsel on record for writ petitioner in both these writ petitions and Ms.G.Dhanamadhri, learned Government Advocate, who accepts notice on behalf of the lone respondent in both these writ petitions are before this Court.

2. With consent of learned counsel on both sides, main writ petitions are taken up, heard out and are being disposed of.

3. In these two writ petitions, orders dated 03.10.2016 and 30.03.2017, being revised assessment orders pertaining to Assessment Years 2013-14 and 2014-15 respectively have been called in question to a limited extent. These two orders dated 03.10.2016 and 30.03.2017 bearing Reference CST Nos.1046115/2013-14 and 1046115/2014-1, shall hereinafter be collectively be referred to as 'impugned orders' in plural and 'impugned order' in singular.

4. Limited challenge to impugned orders in these two writ petitions, is to the limited extent that the impugned orders seek to adjust 'Input Tax Credit' ('ITC' for brevity) under Section 19(2) (v) of 'Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006)', which shall hereinafter be referred to as 'TNVAT Act' for brevity). There is a further limb of the prayer seeking a direction to the respondent to grant refund with regard to these adjustments qua ITC that have been made under Section 19(2) (v) of TNVAT Act.

5. What is of significance is, post impugned orders, writ petitioner has sent two separate communications both dated 21.03.2017, with a specific request to revise the impugned orders and allow the writ petitioner's claim/credit qua ITC reversals under Section 19(2) (v) of TNVAT Act. A perusal of these communications dated 21.03.2017 reveal that this request is predicated on an order made by a Hon'ble single Judge of this Court in Everest Industries Case being Everest Industries Limited Vs. State of Tamil Nadu (order dated 06.02.2017 made in W.P.No.7969 of 2014 and reported in (2017) 100 VST 158).

6. Learned Revenue Counsel submits that the aforesaid Everest Industries case was passed post impugned orders. This will be applicable only with regard to the impugned order in W.P.No.23739 of 2019 as it is dated 03.10.2016, but this argument may not hold good for the impugned order under challenge in W.P.No.23741 of 2019 as that impugned order is dated 30.03.2017. Be that as it may, considering the further trajectory which the Everest Industries case has taken, which shall be alluded to infra, it may not be necessary to delve into this aspect any further.

7. This Court is informed without any disputation or disagreement that aforesaid Everest Industries order made by a Hon'ble Single Judge of this Court was carried in appeal by way of intra Court appeals by the Revenue Counsel and the lead appeal is W.A.No.1260 of 2017. Learned Revenue Counsel also submits that in these writ appeals there is an interim order dated 20.10.2017 staying the operation of Hon'ble Single Judge's order in Everest Industries. It is also submitted without any disputation or disagreement before this Court that writ appeals have been heard out and orders have been reserved.

8. From the narrative thus far, it emerges very clearly that request of the writ petitioner vide communications dated 21.03.2017 for revision and ITC reversal based on Everest Industries case will depend on the verdict which the Hon'ble Division Bench pronounces in the aforesaid batch of intra Court appeals.

9. This Court, therefore, deems it appropriate to dispose of both these writ petitions with a direction to the sole respondent to take up writ petitioner's requests dated 21.03.2017 and dispose of the same on their own merit and in accordance with law within eight weeks from the date on which judgment is pronounced in W.A.No.1260 of 2017 etc., batch by the Hon'ble Division Bench of this Court

10. Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of these matters and disposal of representations/applications of the writ petitioner dated 21.03.2017 will be on their own merits and in accordance with law more particularly law that is to be pronounced by a Hon'ble Division Bench in the aforesaid appeal/s against Everest Industries Case.

11. Writ petitions are disposed of with above directions. There shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsm

To

The Assistant Commissioner (CT)
Hosur (North)
Krishnagiri Road, Sanadandiram
Hosur - 635 109.

+1cc to Mr.Adithya Reddy, Advocate sr.69533
+1cc to Special Government Pleader(Taxes) sr.69988

W.P.Nos.23739 & 23741 of 2019

rv(co)
nr 26/09/2019