IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.11693 to 11697 of 2017
and
W.M.P.Nos.12715 to 12719 of 2017

Tvl.Kovai Maruthi Papers and Boards Pvt. Ltd.,
Represented by its Director,
K.Soundararajan,
No.524/1, Irukkur, Kabilarmalai,
Paramathi Velur (TK).
Namakkal District. ... Petitioner in all W.Ps.

vs

The Assistant Commissioner (CT)
Namakkal (Rural) Assessment Circle,
Namakkal. ... Respondent in all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the files of the respondent in TIN.3337310081/2011-12, TIN.3337310081 /2012-13, TIN.3337310081 /2013-14, TIN.3337310081 /2014-15, TIN.3337310081/2015-16 dated 31.03.2017 and quash the same and further direct the respondent to inspect and examine the manufacturing process before assessment as directed by this Honourable Court in the judgment reported in (2015) 81 VST 389 (Madras).

For Petitioner : Mr.R.Senniappan in all W.Ps.

For Respondent : Mr.M.Hariharan Additional Government Pleader in all W.Ps.

COMMON ORDER

By this common order, all the five Writ Petitions are being disposed.

2.In these writ petitions, the writ petitioner has challenged the impugned notices for the assessment years 2011-12 to 2015-2016. In the impugned notices, the petitioner has been called upon to reverse the proportionate input tax credits equivalent to the processing loss as detailed below:-

Year	Claim amount	Rate
2011-2012	7,22,140.00	13.56%
2012-2013	10,16,194.00	13.40%
2013-2014	12,89,112.00	13.40%
2014-2015	15,80,678.00	13.87%
2015-2016	14,07,192.00	13.87%

3.These notices also proposed levy of penalty under Section 27(3)(a) of the TNVAT Act, 2006.

4.In these writ petitions, the respondent has now filed common counter affidavit in terms of the order of learned Single Judge of this Court in Interfit Techno Products Ltd. vs Principal Secretary/Commissioner of Commercial Taxes, (2015) 81 VST 389 (Mad). The paragraph No.5 of the common counter affidavit reads as under:-

> With regard to the quantification of the invisible loss and visible loss in the specific case, it is submitted that as a result of survey / inspection conducted as per the directions of the Honourable High Court in this specific case, it is since quantified as 0.85% of loss of raw materials that were used in manufacturing in process and hence it is prayed that the above said percent may be permitted to be adopted for quantifying the reversal tax credit. In terms of Section 19(9)(iii) of the Act for all the five years involved in these writ petitions.

5.The learned counsel for the writ petitioner submits that he has no objection for the notice to be adjudicated in the light of the finding of facts arrived regarding processing loss by the respondent in their counter. Since the processing loss has been now quantified as 0.85% by the respondent himself.

6.The respondent is directed to pass appropriate orders in the impugned notices after hearing the writ petitioner and re-quantify the demand in terms of the finding of facts regarding processing loss given by the respondent in their counter.

7.Since the impugned notices have been issued during the year of 2017 for various assessment years, beginning from the 2011-12 to 2015-2016, the respondent may pass speaking orders in the respective impugned notices within a period of six months from the date of receipt of a copy of this order.

8.The present Writ Petitions are disposed with the above observations. No cost. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

The Assistant Commissioner (CT)
Namakkal (Rural) Assessment Circle,
Namakkal.

+1 cc to M/s.R.Senniappan,Advocate Sr.No. 102130
+1 cc to The Special Government Pleader(Taxes) Sr.No. 101815

AKM/27.01.2020/3P-4C /

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