

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.20034 of 2015
and MP.No.1 of 2015

M/s.Farwood Industries Limited,
rep., by the Managing Director,
No.2/546, East Coast Road,
Neelankari,
Chennai - 600 041. ..Petitioner

-Vs-

The Assistant Commissioner (CT)
Sholinganallur Assessment Circle,
Chennai - 600 096. ..Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings of the assessment order in TIN No.33020920465/2012-13 dated 25.05.2015 and quash this assessment proceedings as illegal and direct the respondent to pass fresh orders by following the principle of law laid down by the orders of the Division Bench of the Supreme Court in 109 STC 0439 (SC) after giving personal hearing.

For Petitioner : Mr.C.Baktha Siromoni

For Respondent : Mr.A.N.R.Jayaprathap, SGP(T)

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O R D E R

With the consent of both the parties, the Writ Petition is taken up today and heard through video conferencing.

2. The issue involved in the present Writ Petition is as to whether the department is justified in levying taxes rejecting the sales made by the vendor to the petitioner, retrospective of the cancellation of the registration certificate of the vendor

and consequently, denying the Input Tax Credit (ITC) claim. This issue is already covered by a decision of the Hon'ble Supreme Court in the case of State of Maharashtra V. Suresh Trading Company reported in 1998 (109) STC 439 (SC) holding that retrospective cancellation in such cases cannot be adopted and thereby, the ITC claim cannot be denied. Following the decision of the Hon'ble Apex Court, this Court in the earlier cases of the petitioner in W.P.35264 of 2015 as well as in W.P.No.35265 of 2015, had adopted the law laid down and thereby set aside the rejection of the ITC claim.

3. In view of the aforesaid decisions, the impugned assessment passed by the respondent dated 25.05.2015 is set aside. Consequently, the Writ Petition stands allowed. Connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT)
Sholinganallur Assessment Circle,
Chennai - 600 096.

+1cc to the Spl. Government Pleader(Taxes), Sr.No.27563

सत्यमेव जयते

W.P.No.20034 of 2015
and
MP.No.1 of 2015

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vsn ii (co)
rr ii (28/09/2020)