IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.30298 to 30301 of 2015
and
M.P.Nos.1, 1, 1 & 1 of 2015

M/s.Kanishk Steel Industries Limited,
Rep.by its Director Mr.Vishal Keyal,
4, Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004. .. Petitioner in all WPs

/versus/

The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
48, Pasumpon Muthuramalingadevar Salai,
Chennai-600 028. .. Respondent in all WPs

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorari, call for the records of the respondent in TIN:33670740706/2012-13, TIN:33670740706/2011-12, TIN:33670740706/2010-11 and TIN:33670740706/2009-10 respectively and quash the order dated 30.07.2015 passed therein.

For Petitioner in all WPs : Ms.Hema Muralikrishnan

For Respondent in all WPs : Mr.A.N.R.Jayaprathap
Standing counsel

COMMON ORDER

Both the counsels fairly submitted that the issue has been confirmed on account of invisible loss is now covered by an order dated 04.12.2019 in W.P.No.3172 of 2014. Following view was expressed in the said order, which reads as under:-

> "5. In my view, the expression "inputs destroyed at some intermediary stage of manufacture" in sub clause (iii) of Section 19 (9)(iii) of TNVAT Act, 2006 will not take

within its fold those inputs "consumed" in the manufacture of final product. Only when inputs are "destroyed at some intermediary stage of manufacture", reversal of input tax credit is warranted. They would be instance of inputs which are withdrawn at an intermediary stage of manufacture and are incapable of being used further and are sold as scrap/waste or physically destroyed by an assessee having no residual value. Such inputs alone can be construed as "inputs destroyed at some intermediary stage of manufacture". There is no scope for reversal of input tax credit on inputs which get consumed during the course of manufacture as "invisible loss". The authorities may therefore keep these observations while passing orders in the Show Cause Notice which have been issued".

2. In view of the above, the impugned order passed by the respondent is set aside and the cases are remitted back to the respondent to pass appropriate orders in respect of invisible loss alone.

3. In the result, these writ petitions are disposed of in the above terms. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rpl
To

The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
48, Pasumpon Muthuramalingadevar Salai,
Chennai-600 028.

+1cc to Mr.L.Murali krishnan , Advocate SR.No. 7921
+1 cc to Spl Government Pleader(Taxes) Sr.No. 8162

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A.SK(04/03/2020)