BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.02.2020
CORAM:
THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD
W.A.[MD]No.345 of 2019

Myers Tyre Supply (India) Limited
Represented by its Additional Director,
P.Gopalakrishnan,
TVS Building,
Post Box No.21, 7-B West Veli Street,
Madurai - 625 001. : Appellant

Vs.

1.The Assistant Commissioner (ST),
West Veli Street Assessment Circle,
Dr.Thangaraj Salai,
Madurai - 625 020.

2.Goods and Services Tax Net Work Ltd.,
(East) Wing, 4th Floor,
World Market,
New Delhi - 110 037.

3.The State of Tamil Nadu,
Represented by its Secretary,
Commercial Taxes and Religious B2 Department,
Fort. St. George,
Chennai - 600 009.

4.Union of India,
Represented by its Secretary,
Ministry of Finance,
Department of Revenue,
New Delhi. : Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 12.11.2018 passed in W.P.[MD]Nos.19464 & 19465 of 2018.

PRAYER in W.P.(MD) No.19464 of 2018: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent herein to permit the petitioner to access and upload the electronic credit ledger in Form GST PM T-2 so as to upload the Central Excise transitional of credit of Rs.6,74,926/- and the input credit accrued under the provisions of the Tamil Nadu Value Added Tax Act, 2006 amounting to Rs.30,44,254/- as prayed by the petitioners in their application dated 27.02.2018.

PRAYER in W.P.(MD) No.19465 of 2018: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to grant refund of the accrued input tax credit under the provisions of the Tamil Nadu Value added Tax Act, 2006 amounting to Rs.30,44,254/- in exercise of power under Section 142(3) of the Tamil Nadu Goods and Services Tax Act, 2017 read with Section 19(18) of the Tamil Nadu Value Added Tax Act, 2006 as prayed for by the petitioner in their application dated 28.06.2018.

For Appellant	:	Mr.N.Inbarajan
For Respondents 1&3	:	Mr.VR.Shanmuganathan Special Government Pleader
For Respondent No.2	:	Mr.B.Vijay Karthikeyan
For Respondent No.4	:	Mr.S.Karthick

JUDGMENT

[Judgment of the Court was delivered by **SUBRAMONIUM PRASAD, J.]**

The instant appeal is a challenge to an order dated 12.11.2018 in W.P.[MD]Nos.19464 & 19465 of 2018. The prayer in the writ petition is for a Writ of Mandamus, directing the Assistant Commissioner (Sales Tax), West Veli Street Assessment Circle, Madurai, to grant refund on the accrued Input Tax Credit under the provisions of the Tamil Nadu Value Added Tax Act, 2006, [hereinafter referred to as 'TNVAT Act'], amounting to Rs.30,44,254/- under Section 142(3) of the Tamil Nadu Goods and Services Tax Act, 2017 [hereinafter referred to as 'TNGST Act'] read with Section 19(18) of the TNVAT Act.

2.The material on record discloses that the appellant had also moved an application dated 28.06.2018 for refund of the Input Tax Credit claimed under the TNVAT Act and this application was without prejudice to their rights under Section 140(3) of the TNGST Act. The appellant had also challenged the various provisions of the CGST and TNGST Acts in this regard in W.P.[MD]Nos.18723 & 18724 of 2018, with regard to the time limit of 90 days in processing the applications for the credit of the Input Tax Credit. Pending the two writ petitions, the learned Single Judge, dismissed the instant writ petitions as being per-mature, by observing that it was open to the appellant to make appropriate modifications in the prayer in the pending writ petitions ie.,W.P.[MD]Nos.18723 & 18724 of 2018, challenging the Rules of the CGST and TNGST to take care of the relief as prayed for in the writ petitions.

3.Today, the learned Counsel for the appellant has withdrawn the writ petitions being W.P.[MD]Nos.18723 & 18724 of 2018. In view of the fact that the writ petitions have been withdrawn, we direct the respondents to consider the application dated 28.06.2018, submitted by the appellant for refund of the Input Tax Credit under the provisions of the TNVAT Act, independently and on its own merits. The respondents are directed to consider the same within a period of twelve [12] weeks from the date of receipt of a copy of this order.

4.Resultantly, the judgment impugned in this appeal dated 12.11.2018, is set aside, in the above mentioned terms. The fact that the appellant has withdrawn the two writ petitions was always without prejudice to their consideration of the applications dehors the challenge to the provisions of the CGST and TNGST Acts, regarding the time limits for claiming Input Tax Credit and their right to claim refund of the Input Tax Credit.

5.The Writ Appeal is accordingly, allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MR

To

1.The Assistant Commissioner (ST),
West Veli Street Assessment Circle,
Dr.Thangaraj Salai,
Madurai - 625 020.

2.Goods and Services Tax Net Work Ltd.,
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3.The Secretary,
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Commercial Taxes and Religious B2 Department,
Fort. St. George,
Chennai - 600 009.

4.The Secretary,
Union of India, Ministry of Finance,
Department of Revenue, New Delhi.

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-8860[F]

JUDGMENT MADE IN
W.A.[MD]No.345 of 2019
26.02.2020

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