IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WRIT APPEAL NO.1653 OF 2017
AND
CMP.NO.21412 OF 2017

The Assistant Commissioner (CT)
Manali Assessment Circle
5/79, 1st and 2nd floor
V Cross Street, K.K.D. Nagar
Kodungaiyur
Chennai - 600 118 ...Appellant / Respondent

Versus

M/s. Hinduja Foundries Limited
rep. by its Authorised Signatory
S. Ramachandran
Kathivakkam High Road
Ennore, Chennai - 600 057 ...Respondent / Petitioner

Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 08.06.2017 passed in WP No. 9744 of 2016 on the file of this Court.

Prayer in W.P.No.9744 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for isue a Writ of Prohibition Prohibiting the Respondent, not to proceed further in respect of proposals initiated in the impugned notice issued in TIN/33241080006/2014-15 dated 02.02.2016 in so far it proposes to reverse the Input Tax Credit of Rs.3,33,75,199/- relating to proviso of section 19(2) of the TNVAT Act 2006.

For Appellant	:	Mr. Haja Nazurudeen Additional Advocate General assisted by Mr.M.Venkateswaran Special Government Pleader (Tax)
For Respondent	:	Mr.R.Raghavan

JUDGMENT

(Judgment of the Court was delivered by R. Mahadevan, J)

Heard both sides and perused the materials placed before this court.

2.The appellant has come forward with this intra-court appeal assailing the order dated 08.06.2017 passed by this court in WP No. 9744 of 2016.

3.The respondent / assessee is a registered dealer under the Tamil Nadu Value Added Tax (TNVAT) Act, 2006 and the Central Sales Tax Act, 1956 on the file of the appellant. For the assessment year 2014-15, they filed their return. Upon scrutiny of the same, it was found that they have effected inter-state sales to the registered dealers to the tune of Rs.250,64,13,481/- under sub section (1) of section 8 of the CST Act, 1956, but not effected reversal of Input Tax Credit under Section 19(2)(v) of the TNVAT Act. According to the appellant, the dealer is eligible for Input Tax Credit only in excess of 3% as per the amended provisions of Section 19 (2) (v) and they are not eligible for Input Tax Credit without 'C' forms as per Section 19 (5) (c). Therefore, a notice dated 02.02.2016 came to be issued, proposing to reverse the Input Tax Credit and called upon the respondent / assessee to submit their objections.

4.Challenging the notice dated 02.02.2016, the respondent / assessee has filed a writ petition viz., WP.No.9744 of 2016 praying to issue a Writ of Prohibition, prohibiting the respondent not to proceed further in respect of the notice dated 02.02.2016 insofar as it proposes to reverse the Input Tax Credit of Rs.3,33,75,199/- relating to proviso of Section 19(2) of the TNVAT Act, 2006.

5.After having observed that the writ petition was filed only against the notice and the respondent / assesee can always file their objections before the Assessing officer, the learned single Judge, by order dated 08.06.2017, has disposed of the said writ petition, granting two weeks time to the respondent / assessee to file their objections and further directing the assessing officer to pass appropriate orders, insofar as the issue of ITC reversal under section 19(2)(v) of the Act within a period of two weeks thereafter. Feeling aggrieved, the Revenue has come up with this writ appeal.

6.During the course of argument, it was brought to the notice of this court that subsequent to the disposal of the writ petition, the respondent/assessee has submitted their objections to the notice dated 02.02.2016 issued by the appellant / Revenue, proposing to reverse the Input Tax Credit and now, it is for the Assessing Officer to consider the same and pass appropriate orders.

7.In view of the above, we are of the opinion that no further adjudication is necessary in this writ appeal, except directing the Assessing Officer to pass final order, after considering the objections filed by the respondent/ assessee, as expeditiously as possible.

8.With the aforesaid direction, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

The Assistant Commissioner (CT)
Manali Assessment Circle
5/79, 1st and 2nd floor
V Cross Street, K.K.D. Nagar
Kodungaiyur
Chennai - 600 118

W.A.No.1653 of 2017

SRA(CO)
RVM(12/01/2022)