IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.08.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 30872 of 2017
and
W.M.P. Nos 33800 and 33801 of 2017

M/s.Chennai Ferrous Industries Limited,
Rep. by its Managing Director - R.Natrajan,
No.180 to 183, 190 to 193, OPG Nagar,
Periya obulapuram,
Madarpakkam Road,
Gummidipoondi - 601 201,
Tiruvallur district. ...Petitioner

..vs..

1. The State of Tamil Nadu,
Rep. by the Secretary to government,
Department of Commercial taxes and Religious Endowments,
Fort St. George, Chennai - 600 009.

2. The Special Commissioner and
Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

3. The Assistant Commissioner (CT),
Gummidipoondi Assessment Circle,
Gummidipoondi,
Tiruvallur District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the third respondent in his impugned proceedings made in TIN.33801705736/2014-15/ST 7251617/AA3 dated 01.06.2017 quash the same as illegal in so far the reversal of ITC under section 19(2)(v) of the TNVAT Act, 2006.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

Heard Mr.S.Rajasekar, learned counsel for the petitioner and Mr.V.Veluchamy, learned Government Advocate for the respondents.

2. Two issues arise from the order of assessment dated 01.06.2017 for the period 2014-15 passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'). Both relate to reversal of Input Tax Credit (ITC), the first under Section 19(2)(v) of the Act and the second in terms of Section 19(5)(c) of the Act.

3. The reversal of ITC in terms of Section 19(2)(v) is covered by a decision of a learned Single Judge in the case of Everest Industries V. State of Tamil Nadu (100 VST 158). This decision is subject to Writ Appeal in W.A. No. 1260 of 2017, wherein the operation of the decision of the learned Single Judge is stayed. Thus, it would be appropriate that this matter be remanded to the file of the Assessing Authority, who will await the decision of the Division Bench and pass orders, either confirming the reversal of ITC or accepting the stand of the petitioner, in line with the decision in the Writ Appeal.

4. As far as reversal of ITC in terms of Section 19(5)(c) is concerned, I have taken a view in favour of the assessee in the case of Bharath Traders V. Commissioner, Commercial Tax Officer and another (W.P.(MD)No.15103 of 2014 and batch dated 30.08.2019). Though Mr.Kaushik would state that a Writ Appeal has been filed and is pending in SR stage, no details are supplied.

5. In the light of the above, I am inclined to reiterate the view taken in the aforesaid matter in favour of the petitioner. Accordingly the reversal of ITC in terms of Section 19(5)(c) of the Act is set aside.

6. This Writ Petition is partly allowed. However there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vji

To
1. The Secretary to government,
The State of Tamil Nadu,
Department of Commercial taxes and Religious Endowments,
Fort St. George, Chennai - 600 009.

2. The Special Commissioner and
Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

3. The Assistant Commissioner (CT),
Gummidipoondi Assessment Circle,
Gummidipoondi,
Tiruvallur District.

+1cc to Special Government Pleader(Taxes), S.R.No.43720

W.P. No. 30872 of 2017
and
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SRA(CO)
CB(17/09/2021)