IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.06.2022

CORAM

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

W.A.NO.458 OF 2018
AND
C.M.P.NO.4260 OF 2018

1. The State of Tamil Nadu
Rep. by its Secretary
Commercial Taxes Department
Fort St. George
Chennai

2. The Commercial Tax Officer
Villivakkam Assessment Circle
Chennai 600 099

.. Appellants/
Respondents

Vs

M/s.Shree M.P.F. Industries
Rep. by its Partner
Bakul Muljinhai Pate
No.L-14, SIDCO Industrial Estate
Villivakkam, Chennai-49

.. Respondent/
Petitioner

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 06.02.2017 passed by the learned Judge in W.P.No.1388 of 2017.

Prayer in W.P.No.1388 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to call for the impugned proceedings of the 2nd respondent in TIN 33451364246/2013-14 dated 30.8.2016 and quash the same and direct the 2nd respondent not to apply Sec2(1) of Tamil Nadu Value Added Tax (Fifth Amendment) Act 2013 to the petitioner herein in as much as the petitioner is a manufacturer of goods in the state of Tamil Nadu.

For Appellants Mr.V.Prashath Kiran
Government Advocate
(Taxes)

For Respondent No appearance

J U D G M E N T

[Judgment of the Court was delivered by R.MAHADEVAN,J.]

This writ appeal arises from the order dated 06.02.2017 passed by the learned Judge in W.P.No.1388 of 2017.

2. According to the appellants/Revenue, the respondent/assessee is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The respondent/assessee filed the return for the assessment year 2013-14, which was assessed under Section 22(2) of the TNVAT Act, 2006 and a notice came to be issued proposing to reverse the Input Tax Credit availed by the respondent/assessee. Upon receipt of the objections to the said notice, from the respondent/assessee, the assessing officer passed the assessment order dated 30.08.2016. Challenging the same, the respondent/ assessee preferred W.P.No.1388 of 2017, stating that the assessing officer erred in reversing Input Tax Credit under Section 19(2)(v) of the TNVAT Act, 2006, when the respondent/assessee has used only exempted raw materials and raw materials purchased from outside the State in the manufacture of goods that were sold inter-state; and the assessing officer also erred in ignoring the fact that the proviso to Section 19(2) of the TNVAT Act, 2006, clearly states that it will apply only in cases falling under Section 19(2)(v) of the Act and therefore, the same will apply only when local tax suffered goods are purchased for the purpose of sale under Section 8(1) of the Central Sales Tax Act, 1956. By order dated 06.02.2017, the learned Judge allowed the writ petitions by setting aside the disputed assessment orders. Aggrieved over the same, the appellants/ Revenue is before this court with this writ appeal.

3. Today, when the case was taken up for consideration, the learned Government Advocate (Taxes) appearing for the appellants/Revenue submitted that the issue involved herein has already been considered by judgment dated 31.03.2022 passed in W.A.No.1260 of 2017 etc. batch. and hence, this writ appeal may be disposed of in the same lines.

4. In view of the above, this writ appeal is disposed of, in terms of the earlier judgment of this Court dated 31.03.2022 in W.A.No.1260 of 2017 etc. batch. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1 The Secretary,
Commercial Taxes Department,
Fort St. George,
Chennai.

2. The Commercial Tax Officer,
Villivakkam Assessment Circle,
Chennai 600 099.

+1cc to the Special Government Pleader (Taxes), S.R.No.39452

W.A.No.458 of 2018

AJS(CO)
PM/13/07/2022