BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.18792 of 2022
and
W.M.P(MD).No. 13700 of 2022

M/s. Everest Steel Rolling Mills,
Represented by its Managing Partner
K.Yasir Arafath,
Karur - 639 203.

: Petitioner

Vs

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai

2. The Appellate Deputy Commissioner (ST),
Commercial Taxes Buildings,
Erode.

3. The Assistant Commissioner (ST),
Karur (West) Assessment Circle,
Karur

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd Respondent in his order in TIN - 33783784651 / 2013-14 dated 06.08.2018 and quash the same as arbitrary and unlawful and further direct the 3rd Respondent not to apply Sec.2(1) of the Tamil Nadu Value

Added Tax (Fifth Amendment) Act, 2013 to the petitioner herein in as much as the petitioner is a manufacturer of TMT STEEL BARS in the State of Tamil Nadu in view of the judicial precedent held in the case of M/s. TVS Upasana Limited in WP No.12347 of 2022 dated 07.06.2022.

For Petitioner : Mr.K.Srinivasan
For Respondents : Mr.M.Prakash
Additional Government Pleader

ORDER

The present writ petition had been filed in the nature of Certiorarified Mandamus, challenging the order passed by the 3rd Respondent in TIN - 33783784651 / 2013-14 dated 06.08.2018 and further direct the 3rd Respondent not to apply Sec.2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013 to the petitioner herein in as much as the petitioner is a manufacturer of TMT STEEL BARS in the State of Tamil Nadu in view of the judicial precedent held in the case of M/s. TVS Upasana Limited in W.P No.12347 of 2022 dated 07.06.2022.

2.The common question that arises for consideration in this Writ Petition relates to interpretation of the amendment made to Section 19(2)(v) and the insertion of the proviso to Section 19(2) vide amendment Act No.28 of 2013 and its subsequent omission vide amendment Act No.5 of 2015. The scope and ambit of the above amendments stand resolved by the Division Bench of this Court in W.A.No.1260 of 2017, dated 31.03.2022. An attempt was made to suggest that the State intends to file an appeal against the above order of the Division Bench, similar submission made has been considered and the following orders were passed in W.A.No.812 of 2019 dated 08.09.2022.

> *3. Though there is a request for adjournment stating that the State is proposing to file an appeal, we are inclined to dismiss this writ appeal considering the fact that the issues are now covered against the State. However, we leave it open to the State to work out their remedy before the Hon'ble Supreme Court along with other cases where an order has been passed as referred to supra.*

3. Following the same, the impugned order dated 06.08.2018 is set aside and the matter is remitted back to the Assessing Officer to redo the assessment in terms of the Division Bench judgments in W.A.No.1260 of 2017, dated 31.03.2022 and W.A.No.812 of 2019 dated 08.09.2022, within a period of four months, from the date of receipt of a copy of this order.

4.With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2022

Index : Yes / No
Internet : Yes/ No
lr

To
1. The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai

2. The Appellate Deputy Commissioner (ST),
Commercial Taxes Buildings,
Erode.

3. The Assistant Commissioner (ST),
Karur (West) Assessment Circle, Karur.

https://www.mhc.tn.gov.in/judis

MOHAMMED SHAFFIQ, J.

lr

W.P(MD).No.18792 of 2022

29.09.2022

https://www.mhc.tn.gov.in/judis