IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.11.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.30017 & 30018 of 2015
AND
M.P.Nos.1 & 1 of 2015

M/s.Saint Gobain Glass India Ltd.
(Now known as M/s.Saint Gobain India Private Ltd.)
Rep. by its Team Leader-Finance & Accounts
Plot A-1, SIPCOT Industrial Park
Sriperumbudur
Kancheepuram .. Petitioner in both WPs

Vs.

The Deputy Commissioner (CT) IV (FAC)
Large Tax Payers Unit
V Floor, Durgar Towers
No.34, Marshalls Road
Chennai 600 008 .. Respondent in both WPs

W.P.No.30017 of 2015 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the respondent in TIN/33511662391/May 2014-15 and quash the order dated 24.08.2015 passed therein and further direct the respondent not to apply Section 2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013, to the petitioner herein inasmuch as the petitioner is a manufacturer of goods in the State of Tamil Nadu.

W.P.No.30018 of 2015 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the respondent in TIN/33511662391/May 2014-15 and quash the order dated 24.08.2015 passed therein and further direct the respondent not to apply Section 2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013, to the petitioner herein inasmuch as the petitioner is a manufacturer of goods in the State of Tamil Nadu.

For Petitioner in both WPs	:	Mr.R.L.Ramani Senior Advocate
For Respondent in both WPs	:	Mr.Prashanth Kiran Government Advocate

COMMON ORDER

(Order of the court was made by R. MAHADEVAN, J.)

These writ petitions have been filed against the orders dated 24.08.2015 passed by the respondent in Nos.TIN/33511662391/May 2014-15 and TIN/33511662391/May 2013-14, respectively, and praying for a direction to the respondent herein not to apply Section 2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013, to the petitioner herein inasmuch as the petitioner is a manufacturer of goods in the State of Tamil Nadu.

2.The main ground raised by the writ petitioner in these writ petitions is that the respondent had failed to understand the fact that the petitioner had used the local tax suffered goods as input in the manufacture of goods within the State and therefore, the petitioner is entitled to unrestricted Input Tax Credit under Section 19(2)(ii) of the TNVAT Act, 2006. The respondent had also failed to understand that the newly inserted proviso to Section 19(2) of the Act does not apply, when local tax suffered goods are used in the manufacture of other goods within the State and such goods are sold in inter-state basis against C-Declaration Forms, according to the petitioner.

3.When these writ petitions were taken up, the learned counsel appearing for the petitioner submitted that the issue involved herein is covered by the judgment of this Court in ***The State of Tamil Nadu and Others Vs. Everest Industries Limited*** reported in **MANU/TN/2953/2022.**

4.On the other hand, the learned Government Advocate appearing for the respondent submitted that the Hon'ble Supreme Court has granted stay in the SLP preferred by them against the judgment referred *supra* and accordingly placed a copy of the stay order dated 25.07.2023 before us. Therefore, the learned counsel sought liberty to the respondent to decide the issue afresh on the basis of the final verdict to be rendered by the Apex Court.

5.In view of the above submission made by the learned Government Advocate appearing for the respondent, granting such liberty, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D,J.] [M.S.Q, J.]
22.11.2023

Neutral Citation : Yes/No
gya

To
The Deputy Commissioner (CT) IV (FAC)
Large Tax Payers Unit
V Floor, Durgar Towers
No.34, Marshalls Road
Chennai 600 008

R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

gya

W.P.Nos.30017 & 30018 of 2015

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