IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2023

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.7180 of 2021 and
W.M.P. No.7694 of 2021

Universal Conveyors,
Rep. by its Proprietor,
Door No.26, Rajeswari Layout, Begapalli Village Post,
Hosur - 635 126. ... Petitioner

Vs.

The State Tax Officer,
Hosur [North] -I, Hosur. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the respondent in CST No.448222/2016-17 dated 18-01-2021 and quash the same.

For Petitioner : Ms.Mansi Sethiya Jain
for Mr.Adithya Reddy

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order under the Central Sales Tax Act, 1956 (hereinafter referred to as "the CST Act") for the assessment year 2016-2017 dated 18.01.2021 on the premise that the Appellate Authority has proceeded to reverse the input tax credit on a gross misconception that the benefit of the input tax credit is extended under the CST Act.

2. It is submitted by the learned counsel for the petitioner that input tax credit is extended only under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the TNVAT Act). It is submitted that there is no provision under the CST Act extending the benefit of input tax credit. It was thus submitted that the reversal of input tax credit in an assessment under the CST Act suffers from error apparent on the face of the record.

3. The learned counsel for the Respondent would submit that a counter has been filed and being an order of assessment, there is an alternate remedy and therefore there is no reason to bypass the same. This Court is conscious of the fact that writ jurisdiction under Article 226 of the Constitution of India would not be exercised in a routine manner. However, existence of alternate remedy is not an embargo or an absolute bar to exercise power under Article 226 of the Constitution of India but a self-imposed restriction and the following circumstances viz., violation of principles of natural justice or bad for want of

jurisdiction or error apparent on the face of the record are some of the exceptions carved out to the rule of alternate remedy for exercise of discretion under Article 226 of the Constitution of India.

4. Keeping the above aspect in mind, this Court is of the view that the impugned order suffers from error apparent on the face of the record inasmuch as there is merit in the submission of the learned counsel for the petitioner that any reversal of credit has to be made only under the TNVAT Act and not under the CST Act.

5. In view of the above, the impugned order is set aside insofar as it reverses the credit in an assessment order under the CST Act. It is always open to the Respondent to reverse the credit, if so warranted under the provisions of the TNVAT Act, in accordance with law. The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

13.10.2023

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No

spp/mka

MOHAMMED SHAFFIQ, J.

spp/mka

To:
The State Tax Officer,
Hosur [North] -I, Hosur.

W.P. No.7180 of 2021

13.10.2023