IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.7325 of 2022 &
W.M.P.No.7357 of 2022

M/s.Propel Industries Pvt. Ltd.,
Rep. by its Sr. Manager (Accounts),
Mr.S.V.Sankar,
663, Ravathur Main Road,
Coimbatore-641 103. ... Petitioner

Vs

The Commercial Tax Officer
Palladam 2 Circle, Tiruppur. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India Seeking for Writ or Certiorari calling for the records of the impugned proceedings of the respondent in TIN 33816245573/2014-15 and quash the order dated 17.02.2022 passed therein.

For Petitioner : Mr.B.Raveendran

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

ORDER

This writ petition has been filed challenging the assessment order dated 17.02.2022 passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 in respect of the Assessment Year 2014-15.

2. Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondent.

3. The Petitioner has challenged the assessment order on the ground that by total non application of mind, the respondent has given its finding in the impugned order dated 17.02.2022 that section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006 is applicable only for traders and not for manufacturers .

4. Admittedly, the petitioner is a manufacturer of Crusher machines. Further as seen from the impugned assessment order, even though the respondent has observed that in a batch of writ petitions in the case of

M/s.Everest Industries Limited vs. The State represented by the Secretary, Commercial Taxes Department and another involving an identical matter, a learned Single Judge of this Court had quashed the assessment orders, despite the fact that the petitioners therein were also manufacturers, only on the ground that the writ appeal filed by the revenue as against the order of the learned Single Judge passed in M/s.Everest Industries Limited case was pending before this Court, the respondent has made a demand of Rs.7,43,200/- on the petitioner towards reversal of Input Tax Credit in terms of section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006 under the assessment order.

5. It is now brought to the notice of this Court by the learned Additional Government Pleader appearing for the respondent as well as the learned counsel for the petitioner that the Division Bench of this Court has also confirmed the findings of the learned Single Judge of this Court in M/s.Everest Industries Limited case by an order dated 31.03.2022 passed in W.A.No.1260 of 2017 batch, by dismissing the writ appeals filed by the Revenue.

6. The issue is no longer res integra in view of the decision rendered by the Division Bench of this Court referred to supra, where it has been held that even for a manufacturer, Input Tax Credit can be claimed under section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006. Hence, the impugned assessment order dated 17.02.2022 under which the Input Tax Credit has been reversed for the petitioner has to be quashed by this Court.

7. Accordingly, the impugned assessment order dated 17.02.2022 passed by the respondent for the assessment year 2014-15 is hereby quashed and the writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

22.02.2023

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Index : Yes/No
Speaking/Non speaking orders
Neutral citations : Yes/No

To

The Commercial Tax Officer
Palladam 2 Circle, Tiruppur.

ABDUL QUDDHOSE, J.

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W.P.No.7325 of 2022

22.02.2023