



W.P.Nos.27008, 27010, 27012 and 27014 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.27008, 27010, 27012 and 27014 of 2023

and

W.M.P.Nos.26431, 26432, 26433 and 26435 of 2023

M/s.Ramakrishna Magnesite Mines,
Represented by its Partner
K.M.Govindarajan,
No.42/3, Kuruvampatti Road,
Kondappanaickenpatty,
Salem - 636 008.

... Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (ST),
Office of the Assistant Commissioner (ST),
Ayodhiyapattinam Circle,
Room No.326, IIIrd Floor,
Commercial Taxes Building,
Fischer Road,
Asthinampatti,
Salem - 636 007.

... Respondent in all W.Ps.

Prayer in W.P.No.27008 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the respondent to consider the reply dated 10.10.2022 filed by the petitioner for



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the Assessment Year CST 2012-2013 and pass order and further direct the respondent to refund the excess amount lying with him.

Prayer in W.P.No.27010 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the respondent to consider the reply dated 10.10.2022 filed by the petitioner for the Assessment Year CST 2013-2014 and pass order and further direct the respondent to refund the excess amount lying with him.

Prayer in W.P.No.27012 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the respondent to consider the reply dated 10.10.2022 filed by the petitioner for the Assessment Year CST 2014-2015 and pass order and further direct the respondent to refund the excess amount lying with him.

Prayer in W.P.No.27014 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the respondent to consider the reply dated 10.10.2022 filed by the petitioner for the Assessment Year CST 2015-2016 and pass order and further direct the respondent to refund the excess amount lying with him.

For Petitioner : Mr.B.Raveendran
(In all W.Ps)

For Respondent : Mr.C.Harsharaj
(In all W.Ps) Additional Government Pleader



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COMMON ORDER

WEB COPY Mr.C.Harsharaj, learned Additional Government Pleader takes notice on behalf of the respondent.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

3. *Prima facie*, it appears the petitioner is not entitled for adjustment of the amount reversed by the petitioner under Section 19(2)(v) of the Tamil Nadu Value Added Tax (TNVAT) Act, 2006 merely because, the issue was settled in favour of the assessee like the petitioner by a learned Single Judge of this Court vide W.P.No.7969 of 2014 dated 06.02.2017 which was confirmed by the Hon'ble Division Bench of this Court vide W.A.No.1260 of 2017 dated 31.03.2022.

4. When the recovery notice was issued on 22.09.2022, these decisions were acting in favour of the petitioner. However, the Department has filed SLP before the Hon'ble Supreme Court in SLP(C)No.5815 of 2023. The Hon'ble Supreme Court has granted stay of the order of the Hon'ble Division



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Bench of this Court in W.A.No.1260 of 2017 dated 31.03.2022 and has thereby affirmed the order of the learned Single Judge of this Court in W.P.No.7969 of 2014 dated 06.02.2017.

5. Consequently, there is no scope for any adjustment. In any event, the respondent is directed to pass appropriate orders on the petitioner's representation/reply dated 10.10.2022 giving particulars of the order passed by the Hon'ble Supreme Court.

6. This exercise shall be carried out by the respondent within a period of four weeks from the date of receipt of a copy of this order.

7. These Writ Petitions are disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

15.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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