IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.3840 of 2022
and
W.M.P.No.3976 of 2022

Tvl.S.R.Resins and Chemicals Industries,
Rep by its Partner: A.Vasuhi,
No.58/105, Athipalayam Road,
Chinnavedapatti,
Coimbatore – 641 049. ... Petitioner

Vs

1.The State of Tamil Nadu,
Rep by the Secretary to the Government,
Commercial Taxes Department,
Fort St.George,
Chennai – 9.

2.The Assistant Commissioner (ST),
Annur Assessment Circle,
Coimbatore. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the 2nd respondent in TIN:33792200781/13-14 dated 18.11.2021 and quash the same as illegal, against the principles of natural justice and without jurisdiction.

For Petitioner : Mr.A.Chandra Sekaran

For Respondents : Mr.C.Harsharaj
Additional Government Pleader

ORDER

The petitioner is before this Court against the impugned recovery proceedings under the TNVAT Act, 2006. It appears that the petitioner has suffered an adverse order dated 06.06.2016 under the CST Act, 1956. The order was passed without the petitioner participating in the Show Cause Notice which preceded the said order as a consequence of the aforesaid order, the respondents had passed the impugned order dated 18.11.2021 for the same Assessment year under the TNVAT Act and has called upon to reverse the Input Tax Credit.

2. It is noticed that the issue as on date is covered by the decision of the learned Single Judge of this Court in the case of ***M/s.Everest Industries Limited*** in W.P.No.7969 of 2014 vide order dated 06.02.2017

reported in 100 VST 158. The said decision was also appealed before the Division Bench of this Court and the Writ Appeal of the Commercial Tax Department in W.A.No.1260 of 2017 which was dismissed on 31.03.2022.

3. Under these circumstances, I am of the view that the impugned order has to be set aside and the case is remitted back to the respondents, as it appears that the Department is in appeal before the Hon'ble Supreme Court in SLP No.5815 of 2023. The appeal is said to have been admitted and an interim stay has been granted on 29.08.2023 in so far as refund of amounts.

4. In view of the above, the impugned order is set aside and the case is remitted back to the respondents to pass a fresh order on merits and in accordance with law after the Hon'ble Supreme Court decides the issue. Any refund, shall also be subject to final out come of the appeal filed by the Commercial Tax Department in SLP.No.5818 of 2023.

5. This writ petition is allowed. No costs. Consequently, connected writ miscellaneous petition is closed.

14.08.2024

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

To

1.The State of Tamil Nadu,
Rep by the Secretary to the Government,
Commercial Taxes Department,
Fort St.George, Chennai – 9.

2.The Assistant Commissioner (ST),
Annur Assessment Circle,
Coimbatore.

C.SARAVANAN, J.

jas

W.P.No.3840 of 2022
and
W.M.P.No.3976 of 2022

14.08.2024