IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

T.C.No.63 of 2024

The State of Tamil Nadu
Represented by the Joint Commissioner (CT)
Salem (Now Erode Division). ... Appellant

-Vs-

Tvl.Point Textiles (P) Ltd
No.37, 38, G7, G8 and F22
SIPCOT Industrial Growth Centre
Perundurai. ... Respondent

Prayer : Appeal under Section 60 of the TNVAT Act 2006 to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) Coimbatore in CTSA No.115 of 2017 dated 10.03.2022.

For Appellant	:	Mr.G.Nanmaran Special Government Pleader
For Respondent	:	Mr.M.Hariharan

O R D E R

(Order of the Court was made by **C.SARAVANAN, J.)**

This Tax Case Revision has been filed against the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Coimbatore in CTSA No.115/2017 dated 10.03.2022, raising the following substantial questions of law:

1. *Whether the order of the learned Tribunal in deleting the reversal of input tax credit stands vitiated inasmuch as it fails to take into account the relevant and has taken into account the factors that are wholly irrelevant in deciding whether reversal is warranted in terms of Section 2(11) of the TNVAT Act 2006?*
2. *Whether the learned Tribunal has erred in deleting the reversal by affirming the findings of the 1st appellate authority which has proceeded to hold that the process engaged by the dealer comes within the purview of Section 2(11) of the TNVAT Act, 2006?*

2. By the impugned order, the appeal filed by the State had been dismissed by placing reliance on the decision of the Hon'ble Supreme Court in **Ujagar Prints -vs- Union of India and Others (74 STC 401)** and yet another decision of the Hon'ble Supreme Court in **Empire Industries and Others -vs- Union of India and Others (64 STC 42)**. The operative portion of the impugned order reads as under:

> *" 7. Heard both sides and perused the connected records. The point raised for consideration in the present appeal filed is that:*
>
> ***a) as to whether the reveral tax credit of Rs.8,00,845-00 on capital goods, made by the assessing authority and deleted by the first appellate authority, in fact and law is correct or not?"***
>
> ***<u>Point:</u>***

8. As seen from the findings of the assessing authority given at Page 3 of the assessment orders it is revealed that the assessing authority stood over on three points ie.,

(a) the dealer not objected before the inspecting officers,

(b) not filed any material evidences to prove their contention,

(c) they do not having any manufacturing activity.

9. We also focussed our attention to the findings of the first appellate authority. With regard to the discussion on the reversal ITC on capital goods, he had given his findings at Page 4 to 6 of the appeal order wherein Section 2(27) and 2(11) were analyzed and emphasized that the use of the words "processing" available under Section 2(11) of the Act.

10. Further, the first appellate authority followed the Hon'ble Madras High Court decision in (2001) ECC 151, 2001 (129) ELT 48 (Mad) wherein it was held ***" the definition of manufacture in Section 2(f) includes any process incidental or ancillary to the completion of a manufactured product. The manufacturer referred to the definition of capital goods in Rule 57Q must insofar as the term "plant" is concerned, be construed as referring to all facilities other than lands and buildings which are properly capable of being regarded as goods and are used directly and indirectly for producing or processing of goods or bringing about any change for the manufacture of final product. The word used in that definition is not required to be qualified further by reading in the word directly in to that definition. The use can be direct or indirect. So long as there is a nexus between the thing used and the production or process which is employed to manufacture the final product, the goods can be regarded as used for the purpose of this definition."***

11. This Tribunal weighed both the findings of the assessing authority and the findings of the first appellate authority. As such, we find that there is no forceful and valid reasons on the part of the assessing authority in holding to disallow or deny the claim of ITC on the capital goods and even the findings so given in Point No.(a) to (c) above are not substantiated with any ruling of judicial forums. The mere one word reason adduced by him is found to be balled in nature and not self speaking and not acceptable in law. The appeal grounds of the state also with mere re-production of Section 2(11) of the Act but no cogent reasons were adduced to defend the orders issued by the assessing authority.

12. Therefore this Tribunal has inclined to accept the findings of the first appellate authority as re-produced in Para 9 above and hold to approve the findings and also the deletion of the reversal tax credit made by the first appellate authority and it is ordered accordingly. The answer to point (a) is only in favour to the dealer."

3. We have heard the learned Special Government Pleader for the petitioner and the learned counsel for the respondent assessee.

4. We do not find any reason to interfere with the impugned order passed by the Sales Tax Appellate Tribunal as it is a well considered order. There is no dispute that the respondent is engaged in bleaching of fabric and therefore is liable to pay tax under the provisions of the TNVAT Act, 2006. Consequently, input tax credit on the capital goods used for such process cannot be denied.

5. In these circumstances, we are inclined to dismiss this Tax Case Revision. No costs. Accordingly, the substantial questions of law raised in this revision are answered in favour of the assessee and against the Revenue.

(R.S.K.,J.) (C.S.N.,J.)
28.11.2024

Index : Yes/No
Internet : Yes/No
KST

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and
C.SARAVANAN, J.

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