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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)Nos.2133 to 2138 of 2017
&
W.M.P.(MD).Nos.1769,1770,1771,1772,1773 and 1774 of 2017

W.P.No.2133 of 2017

M/s. Aruna Alloy Steel Private Limited
represented by its Director SV.Arunachalam
Survey No.3/1, Olaganeri Village
Uthanguid (PO), Madurai ... Petitioner

Vs.

The Assistant Commissioner (CT)
Tallakulam Assessment Circle
Madurai ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records in TIN33384882329/2010-11 dated 28.11.2016 and quash the same as illegal, arbitrary, and against the dictum laid down in the judgment of this Hon'ble Court in the case of Interfit Techno Products Ltd Vs. Principal Secretary/Commissioner of Commercial Taxes reported in (2015) 81 VST

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389 and direct the respondent to pass order afresh by following the directions given by this Court in the above case, after affording opportunity of being heard.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.J.K.Jeyaseelan, Govt.Advocate

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C O M M O N O R D E R

By this common order, all these Writ Petitions are being disposed of.

2. In these Writ Petitions the petitioner has challenged the impugned assessment order dated 28.11.2016 for the assessment year 2008-09 till 2013-2014. The dispute pertains to denial of input tax credit on input lost in the course of manufacture as invisible loss. The department had earlier issued a circular dated 20.10.2011. The circular was subject matter of a challenge before the Hon'ble Division Bench in a batch of Writ Petition lead case being ***Eastman Exports Global Clothing (P) Ltd***. The Hon'ble Division Bench has considered the circular issued by the Commercial Tax Department and has passed the final order on 28.02.2023. Operative portion of the order of the Hon'ble Division Bench

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reads as under:

"……

On analysis of the scope and interplay between Sections 19(2)(ii) and 19(9) of the TNVAT Act, precedents dealing with manufacturing/invisible loss and the rules of construction referred above we find that Section 19(9) of the TNVAT Act would not get attracted to manufacturing/invisible loss which is inevitable and inherent part of manufacture and thus covered by Section 19(2)(ii) of the TNVAT Act. However, this would not preclude the assessing authority from enquiring if the claim of use of input in manufacture is genuine or otherwise."

3. Already, this Court has also taken a favorable view under a similar circumstances in the case of ***M/s. GBR Metals Pvt Ltd Vs. The Assistant Commissioner (CT)*** in W.P.Nos.22304 to 22309 of 2016 dated 28.02.2020.

4. Considering the same, the impugned orders are set aside and the cases are remitted back to the respondent to pass *denovo* order within a period of 60 days duly considering the decision rendered by the Hon'ble Division Bench in ***Eastman Exports Global Clothing (P) Ltd*** dated

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28.02.2023 and the decision of this Court in ***M/s.GBR Metals Pvt Ltd Vs. The Assistant Commissioner (CT)*** in W.P.Nos.22304 to 22309 of 2016 dated 28.02.2020. While passing the *denovo* order, the respondent may also consider the statement gathered by the Commercial Tax Department pursuant to the interim order passed by this Court on 03.04.2017.

With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08.04.2024

Index: Yes/ No
Neutral Citation: Yes / No
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Copy To

The Assistant Commissioner (CT)
Tallakulam Assessment Circle
Madurai

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