IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No.1950 of 2022
&
C.M.P.No.14248 of 2022

The Assistant Commissioner (ST)(FAC)
Cuddalore Taluk Assessment Circle
Cuddalore. .. Appellant

Vs.

M/s. Bharath Ready Mix Concrete
Rep. by its Partner P.Saravanan
No.96/9B, Periyakattupalayam
Villupuram Road, Madalapattu Post
Cuddalore 605 007. .. Respondent

Prayer : Appeal under Clause 15 of Letters Patent against the order dated 05.08.2021 passed in W.P.No.1066 of 2021.

For Appellant : Mr.C.Harsha Raj
Special Government Pleader

For Respondent : No appearance

JUDGMENT
(Judgment of the Court was delivered
by the Hon'ble Chief Justice)

The appeal impugns an order dated 05.08.2021. For ease of reference, paragraphs 3 and 4 read as under:

> *"3. The reversal of ITC in terms of Section 19(2)(v) is covered by a decision of a learned Single Judge in the case of Everest Industries v. State of Tamil Nadu (100 VST 158). This decision is subject to Writ Appeal in W.A.No.1260 of 2017, wherein the operation of the decision of the learned Single Judge is stayed. Thus, it would be appropriate that this matter be remanded to the file of the Assessing Authority, who will await the decision of the Division Bench and pass orders, either confirming the reversal of ITC or accepting the stand of the petitioner, in line with the decision in the Writ Appeal.*
>
> *4. As far as reversal of ITC in terms of Section 19(5)(c) is concerned, I have taken a view in favour of the assessee in the case of Bharath Traders v. Commissioner, Commercial Tax Officer and another (W.P.(MD)No.15103 of 2014 and batch dated 30.08.2019). Though Mr.Kaushik would state that a Writ Appeal has been filed and is pending in SR stage, no details are supplied."*

2. As regards paragraph 3, there is a Special Leave Petition pending in the Apex Court. Counsel states that this appeal be disposed subject to the outcome of the Special Leave Petition in the case of *State of Tamil Nadu and another v. Everest Industries Limited [SLP (C) Diary No.5815 of 2023].* If Revenue succeeds before the Apex Court, then, the Assessing Authority will take further steps in line with the decision of the Apex Court.

3. As regards paragraph 4 quoted above, counsel states that Revenue is not agitating the matter further. Statement is accepted.

4. With the above, appeal is disposed of. There shall be no order as to costs. Consequently, the interim application also stands disposed.

(K.R.SHRIRAM, CJ) (MOHAMMED SHAFFIQ,J.)
04.03.2025

Index : Yes/No
Neutral Citation : Yes/No

kpl

THE HON'BLE CHIEF JUSTICE
AND
MOHAMMED SHAFFIQ,J.

(kpl)

W.A.No.1950 of 2022

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