IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2025

CORAM

THE HON'BLE DR. JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR. JUSTICE C. KUMARAPPAN

W.P. No. 9604 of 2014

Tvl.S.V. Sivalinga Nadar & Sons,
rep. by its Managing Partner,
Thiru S. Velkumar,
P.B. No. 75(444)/866, PJN Road,
Villupuram – 605 602. ..Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by the Secretary to Government,
Commercial Taxes Department,
Fort St. George,
Chennai – 600 009.

2. Union of India rep. through the
Secretary to the Government of India,
Ministry of Law and Justice,
Legislative Department,
4th Floor, A-Wing,
Shastri Bhawan,
New Delhi – 110 001.

3. The Assistant Commissioner(CT),
Villupuram – II Assessment Circle,

27/11, VOC Street,
Villupuram – 605 602. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Declaration declaring that the proviso to sub-section (2) of Section 19 of Tamil Nadu Value Added Tax Act, 2006 is ultra vires the Constitution as it contravenes the provisions of Article 301 read with Article 304 of the Constitution and is an encroachment on the sphere of the Union Legislature thereby violating Article 246 of the Constitution of India and arbitrarily and irrationally infringes the rights of the petitioner under Article 14 and 19(1)(g) of the Constitution of India.

For Petitioner :: No appearance

For Respondents :: Mr.V. Prashanth Kiran
Govt. Advocate (Taxes)

ORDER

(*Made by Dr. ANITA SUMANTH,J.*)

It is brought to the notice of this Court that the learned counsel on record for the petitioner is no more.

2. In any event, the challenge in this writ petition is to the order of assessment denying Input Tax Credit invoking proviso to Section 19(2)(v) of Tamil Nadu Value Added Tax Act, 2006.

3. The said issue has been held in favour of the assessee by a decision of this Court in *The State of Tamil Nadu and Another V. Everest Industries Limited* ((2022) 103 GSTR 10). As against the said judgment,

the State has preferred an SLP and by order dated 25.07.2023, the Supreme Court has granted stay of refund pursuant to the impugned order of this Court until further orders.

4. Since the decision of this Court has not been stayed, the ratio of the aforesaid decision will be applicable in favour of the assessee.

5. In view of the above, the writ petition stands allowed. No costs.

(A.S.M.J.) (C.K.J.)
04.02.2025

Index: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non Speaking order

To

1. The Secretary to Government,
Commercial Taxes Department,
Fort St. George,
Chennai – 600 009.

2. The Secretary to the Government of India,
Ministry of Law and Justice,
Legislative Department,
4th Floor, A-Wing,
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3. The Assistant Commissioner(CT),
Villupuram – II Assessment Circle,
27/11, VOC Street,
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Dr.ANITA SUMANTH,J.
AND
C. KUMARAPPAN,J.

nv

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