IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

CORAM :

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

W.A. No.599 of 2025
and
C.M.P. No.4793 of 2025

The Commercial Tax Officer,
Hosur (South) -635 109. ... Appellant/ Respondent

Vs.

Hosur Fastners and Electricals Pvt. Ltd.,
Rep. By its Director,
Sf.No.416, 2B1, Maruthi Nagar,
Krishnagiri Road, Hosur. ... Respondent/ Petitioner

Prayer : Appeal under Clause 15 of Letters Patent against the order dated W.P.No.4673 of 2019 dated 10.06.2022.

For Appellant	:	Mr.A.Edwin Prabakar State Government Pleader Assisted by Mr.C.Harsha Raj Special Government Pleader
For Respondent	:	No appearance

JUDGMENT

(Judgment delivered
by the Hon'ble Chief Justice)

The appeal is preferred against the order dated 10.06.2022 in which the 1st paragraph reads as under:

> *"Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondent fairly concurs with the petitioner that the issue that arises for consideration in this Writ Petition challenging the impugned order of assessment dated 31.12.2018 has to be answered in favour of the petitioner. The assessment proceeds to reverse the petitioner's claim for Input Tax Credit (ITC) in terms of Section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006."*

2. Therefore, when the respondent in the writ petition (appellant herein) has concurred, the question of filing an appeal against such an order does not arise.

3. At the same time, it appears that the State has preferred a Special Leave Petition before the Honourable Supreme Court in S.L.P.(C).No.5815 of 2023 against the order in W.A.No.1260 of 2017 passed on 31.03.2022 in the case of *Everest Industries vs. State of Tamil Nadu and another.* Shri Prabhakar states that notice has been issued on 25.07.2023 and the grant of refund has been stayed.

4. Shri Prabakar states that even though Additional Government Pleader had fairly concurred with writ petitioner that the writ petition has to be answered in favour of the writ petitioner, it was in view of the law as prevailed on that date.

5. Shri Prabakar states that if the Special Leave Petition is decided in favour of the State, then liberty be granted to the State to revive the order dated 31.12.2018 that was impugned in the writ petition.

6. Keeping open the rights of Revenue to revive the appeal or the order, after the disposal of the Special Leave Petition, in case Special Leave Petition is allowed, this appeal stands closed. Consequently, the connected civil miscellaneous petition is closed. There shall be no order as to costs.

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

25.02.2025

Index : Yes/No
Neutral Citation : Yes/No

kpl/mka

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

(kpl)

W.A. No.599 of 2025
and
C.M.P. No.4793 of 2025

25.02.2025