IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13609 of 2015

M/s Bajaj Enterprise
rep.by its Prop.Praveen Kumar Bajaj
23A, Head Post Office Road
Coonoor, Nilgiris District .. Petitioner

-vs-

1. The Assistant Commissioner (CT)(FAC)
Coonoor Assessment Circle
Coonoor, Nilgiris

2. The Commissioner of Commercial Taxes
Ezhilagam, Chepauk
Chennai 600 005 .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings in Ref.No.L.Dis.No.267/2015 dated 31.3.2015 and quash the same as illegal and direct the first respondent to issue refund voucher for Rs.1,93,791/-.

For Petitioner :: Mr.S.Ramanathan

For Respondents :: Mr.V.Haribabu
Additional Government Pleader

ORDER

The present writ petition has been filed by M/s Bajaj Enterprise represented by its proprietor seeking issuance of a writ of certiorarified mandamus, to call for the records of the first respondent in his proceedings bearing Ref.No.L.Dis.No.267/2015 dated 31.3.2015, to quash the same as illegal with a further direction to the first respondent to issue refund voucher for Rs.1,93,791/-.

2. Mr.V.Haribabu, learned Additional Government Pleader takes notice on behalf of the respondents.

3. The petitioner, being an exporter of tea, is a registered dealer under the Tamil Nadu Value Added Tax Act and Central Sales Tax Act on the file of the first respondent. They claimed refund of input tax credit in Form-W as per Section 18 of the Tamil Nadu Value Added Tax Act read with Rule 11(2) of the Tamil Nadu Value Added Tax Rules and the first respondent has also granted the refund of input tax credit as claimed by the petitioner. Being so, the petitioner filed Form-W for refund of input tax credit of Rs.1,93,791/- on the export sales made from December, 2011 to January, 2012 before the first respondent on 7.6.2012. The first respondent also issued a notice in Ref.Roc.No.339/2012 on 9.7.2012 stating that the petitioner had filed the Form-W manually, whereas the problem faced by the petitioner shows that as per the circular issued by the Principal Commissioner of Commercial Taxes dated 20.10.2011, all refund claims shall be filed only online and any refund filed manually on or after 1.1.2012 shall not be processed.

4. In similar circumstances, this Court in W.P.No.22699 of 2013 dated 19.8.2013 (M/s Tulip International represented by its Proprietrix v. The Assistant Commissioner (CT), Coonoor Assessment Circle and another), while considering the fact that a similar issue had already been answered by this Court in W.P.No.26395 of 2012 dated 4.10.2012 holding that the circular dated 20.10.2011 cannot be made applicable in view of Rule 11(2) of the Tamil Nadu Value Added Tax Rules, had set aside the impugned order with a direction to the petitioner therein to re-submit the same for disposal on merits and in accordance with law. Accordingly, in the light of the above orders, the impugned order is set aside with a direction to the petitioner to re-submit the Form-W within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the Form-W refund claim made by the petitioner on merits and dispose of the same in accordance with law as expeditiously as possible, preferably within a period of two weeks from the date of such re-submission. The writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner (CT)(FAC)
   Coonoor Assessment Circle
   Coonoor
   The Nilgiris

2. The Commissioner of Commercial Taxes
   Ezhilagam
   Chepauk
   Chennai 600 005

+ 1 cc to Mr.S. Ramanathan, Advocate SR.24404

KU(CO)
EU 22.05.2015

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