IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.29704 of 2015

Tvl. Aravind Foods [Petitioner]
Rep. by its Proprietix: M.Angayarkanni
Sri Annamalaiyar Complex 120 Dharapuram Road
Oddanchatran-624 619.

Vs

1 The Deputy Commercial Tax Officer (Enforcement)
Roving Squad Hosur.

2 The Joint Commissioner(CT)
Salem Division Salem.

3 The Assistant Commissioner (CT)-I
Palani.

[Respondents]

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st respondent to refund the sum of Rs.3,18,480/- being the relief granted by the 2nd respondent vide his order passed in R.P.No.47/2014 dated 20-03-2015 together with interest @ 6% per annum from 19-06-2015 till date of issue of the Refund Voucher.

For petitioner : Mr.A.Chandrasekaran
For respondents : Mr.S.Manoharan Sundaram, AGP(T)

O R D E R

Heard the learned counsel for the petitioner and Mr.S.Manoharan Sundaram, learned Additional Government Pleader (Taxes), who took notice for the respondents and with their consent, the writ petitions are taken up for disposal.

2. This writ petition has been filed for the issue of a writ of mandamus to direct the respondents to refund a sum of Rs.3,18,480/- being the relief granted by the 2nd respondent vide his order passed

in R.P.No.47/2014 dated 20-03-2015 together with interest @ 6% per annum from 19-06-2015 till the date of issue of the Refund Voucher.

3. The petitioner is a dealer in Butter and Ghee and an assessee on the file of the 3rd respondent under the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act. The case of the petitioner is that on 08.04.2014, though the consignment which was transported after purchasing the same from Tvl.G.R.G. Diary Product (P) Limited, Bangalore, to their buyer at Oddanchatram in the goods vehicle KA 01 C 7155 was properly accompanied with the documents, the same was detained by the 1st respondent, without any valid reason. Not accepting the explanation submitted by the petitioner, refusing to release the consignment, the 1st respondent apart from levying tax, also levied compounding fee by order dated 10.04.2014, which were also paid by the petitioner for the purpose of release of goods by way of demand drafts. Thereafter, the petitioner filed a revision petition before the Joint Commissioner (CT), Salem Division in R.P.No.47 of 2014, which was partly allowed vide order dated 20.03.2015, by refixing the compounding fee at Rs.2,000/- and tax at Rs.1,60,240/-

4. It is the contention of the learned counsel for the petitioner that the respondents 1 and 3 are bound to give effect to the order of the 2nd respondent and consequently have to refund the excess amount paid by the petitioner within 90 days without interest and thereafter with interest as per Rule 14(18) of the Tamil Nadu Value Added Tax Rules, 2007. Further, according to him, Section 42 (5) of the Tamil Nadu Value Added Tax Act, 2006, provides for refund of the excess amount paid by assessees with interest at 6% p.a., if the amount is refunded after a period of 90 days from the date of the order. However, it is his contention that though the petitioner gave representations to the 1st and 3rd respondents on 30.05.2015, following by reminders dated 16.06.2015, 24.07.2015 and 25.08.2015, there is no response. Hence, the petitioner is before this Court.

5. Admittedly, as against the levy of tax and compounding fee, the petitioner preferred revision petition before the Joint Commissioner (CT) Salem Division, which was partly allowed by order dated 20.03.2015, in and by which, the compounding fee was refixed at Rs.2,000/- . The said order is not challenged by the revenue till date. Hence, the petitioner is entitled to get back the amount paid as refund towards the compounding fee, after deducting a sum of Rs.2,000/-. To that effect, on the basis of the orders passed by the Joint Commissioner, the petitioner submitted representations dated 30.05.2015, following by reminders dated 16.06.2015, 24.07.2015 and 25.08.2015 and the same are still pending consideration.

6. Hence, the 1st respondent is directed to pass orders on the representations of the petitioner dated 30.05.2015, following by reminders dated 16.06.2015, 24.07.2015 and 25.082015, for refund of the compounding fee, as expeditiously as possible, preferably within

a period of one week, in the light of the orders passed by the Joint Commissioner's order dated 20.03.2015 in R.P.No.47/2014.

The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1 The Deputy Commercial Tax Officer (Enforcement)
Roving Squad Hosur.

2 The Joint Commissioner(CT)
Salem Division Salem.

3 The Assistant Commissioner
(CT)-I,Palani.

1 cc to Special Government Pleader.Sr.No.51726
1 cc to Mr. .A.Chandrasekaran, Advocate Sr.No.51654

W.P.No.29704 of 2015

jp(co)
pmk.30.9.2015