IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.29856 of 2015

Durable Chrome Factory (1991) [ Petitioner ]
Presently known as
Durable Chrome Factory Pvt. Ltd.
Represented by its Director
25B Raja Annamalai Road
Purasawakkam Chennai- 84.

Vs

The Assistant Commissioner(CT)
Kilpauk Assessment Circle Chennai-10.
[Respondent]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the Respondent to dispose of the Petitioner representation dated 05.12.2014 in accordance with the directions issued by the Commercial Taxes Department in Circular No.24/2015/CC4/ 678/2015 dated 20.06.2015.

For Petitioner : Mr.A.Ravichandran
For Respondent : Mr.S.Manoharan Sundaram, AGP(T)

O R D E R

Heard the learned counsel appearing for the petitioner and Mr.S.Manoharan Sundaram, learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2.The writ petition has been filed under Article 226 of the Constitution of India seeking a direction to the respondent to dispose of the Petitioner's representation dated 05.12.2014 in accordance with the directions issued by the Commercial Taxes Department in Circular No.24/2015/CC4/ 678/2015 dated 20.06.2015.

3.1 The learned counsel for the petitioner submits that the petitioner is a dealer in Footwear and Leather Products and are registered under TNVAT Act bearing Registration number in TIN.33971123109 and they are an assessee in the books of the respondent and have been regularly filing their monthly returns and paying their taxes thereon.

3.2 According to the learned counsel for the petitioner, the petitioner Company was created in the year April 2013, as a result of a merger of various Partnership Firms and its branches, which had different registration numbers under TNVAT and CST to operate only as a Partnership Firm within Chennai. Further, according to him, upon entering into a Merger agreement dated 01.04.2013, the petitioner Company had taken over all the assets and liabilities of the partnership firms with effect from 01.04.2013 and a letter of intimation dated 01.04.2013 was also sent to the respective territorial assessing officers having jurisdiction over the erstwhile partnership firms including the respondent herein regarding the merger of branches.

3.3 That apart, according to the learned counsel for the petitioner, upon being merged into one Private Company, they have been brought under the jurisdiction of the respondent and since 01.04.2013, they have been paying their taxes and reporting tax compliance only with the office of the respondent.

3.4 When such being the case, the learned counsel for the petitioner submits that when the petitioner sought for issuance of Manual "C" forms in December 2014 for those transactions which had occurred during the existence of the said partnership firms prior to the creation of the Private Limited Company, the same was turned down by the respondent, who had jurisdiction over the erstwhile partnership firm, by stating that since the erstwhile branch under his jurisdiction has merged into a Private Limited Company, the manual C forms cannot be issued by his office and the petitioner cannot seek for the manual backlog C forms after having been transformed into a Private Limited Company.

3.5 It is the contention of the learned counsel for the petitioner that when they requested the respondent to issue the said reason in writing, the respondent had stated that if any representation is being made in this regard, the same will be complied with by them. Accordingly, the petitioner submitted a representation on 05.12.2014 to the respondent, but till date no order has been passed.

3.6 Adding further, the learned counsel for the petitioner submits that the guidelines to issue the backlog C forms to the dealers have been clearly set out in the various circulars issued by the Commercial Taxes Department dated 07.04.2015, 12.05.2015 and 20.06.2015 with a direction to the heads of the assessment circles including the respondent herein and the Circular dated 07.04.2015 describes the manner in which the application is to be submitted. He also pointed out that in the Circular dated 20.06.2015 it is clearly stated that the time for issuance of backlog C forms has been extended upto 30.09.2015. However, till date the same has not been issued. Since the petitioner's representation dated 05.12.2014 has not yet been disposed of, the learned counsel for the petitioner has sought for a direction from this Court to the respondent to dispose of the same within a stipulated time.

4. Since the petitioner finds difficulty in generating online C forms on account of merger of various Partnership Firms and its branches into one of Durable Chrome Factory Private Limited with effect from 01.04.2013, in order to enable them to file C forms manually, they made a representation 05.12.2014. However, the same has not been considered by the respondent. That apart, the learned counsel submitted that that as per the Circular dated 07.04.2015, they submitted the application. He also pointed out that generating manual C forms is permitted upto 30.09.2015. Hence, there is an urgency to consider the representation of the petitioner.

5. The learned Additional Government Pleader (Taxes) on the other hand submitted that the representation of the petitioner will be considered and orders passed by the respondent.

6. In view of the above, the respondent is directed to consider the representation of the petitioner dated 05.12.2014 and pass orders in accordance with the directions issued in the Circular of the Commercial Taxes Department dated 20.06.2015, within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above direction. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Assistant Commissioner(CT)
Kilpauk Assessment Circle Chennai-10.

+1 cc to the Special Government Pleader(Taxes)sr52066
+1 cc to Mr.A.Ravichandran Advocate sr.51794

W.P.No.29856 of 2015

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