IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16/12/2015

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.38708 of 2015

M/s. Malladi Drugs & Pharmaceuticals Limited
rep. By its General Manager - Finance
Mr.V.Krishnakumar
No.9 GST Road
St Thomas Mount
Chennai 600 016. ...Petitioner

Vs

1. The Assistant Commissioner - CT
Nandambakkam Assessment Circle
No.17 Second Street
Loganathan Nagar
Choolaimedu
Chennai 600 094.

2. The Assistant Commissioner - CT
Guindy Assessment Circle
Chennai 600 028.

3. The Joint Commissioner
(Chennai - East) - CT
PAPJM Building
Greams Road
Chennai 600 006.

4. The Commissioner Commercial Taxes
- TN
O/o Commissioner of Commercial Taxes
Ezhilagam
Chennai 600 005. ...Respondents.

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of mandamus to direct the first respondent to consider the claim of refund of ITC in Form W for the months of November 2013 to June 2015 and direct the respondents to refund a sum of Rs.1,06,26,951/- together with interest @ 6% per annum i,e., Rs.4,69,860/- in accordance with Rule 11 (2) read with 18 (1) of Tamil Nadu Value Added Tax Act, 2006 for refund of ITC credits on the zero rates sales and Rule 12 (1) read with Section 42 (5) of TN VAT Act, for payment of interest.

For Petitioner ... Mr.Joseph Prabakar
for Mr.G.Vijayakumar

For respondents ... Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.Joseph Prabakar for Mr.G.Vijayakumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondents.

2. With the consent of the learned counsel appearing on either side, the writ petition is taken up for final disposal, at the admission stage itself.

3 This writ petition has been filed praying to direct the first respondent to consider the claim of refund of ITC in Form W for the months of November 2013 to June 2015 and direct the respondents to refund a sum of Rs.1,06,26,951/- together with interest @ 6% per annum i,e., Rs.4,69,860/- in accordance with Rule 11 (2) read with 18 (1) of Tamil Nadu Value Added Tax Act, 2006 for refund of ITC credits on the zero rates sales and Rule 12 (1) read with Section 42 (5) of TN VAT Act, for payment of interest.

4. The learned counsel appearing for the petitioner submitted that there is no delay on the part of the petitioner and the application for refund has been submitted well within a period of 180 days.

5. The learned Additional Government Pleader appearing for the respondents submitted that the claim for refund is more than Rs.1 crore and the Assessing Officer has no jurisdiction to deal with such claim as his pecuniary limit is only Rs.1 lakh. Therefore, it is submitted by the learned Additional Government Pleader that the third respondent may be directed to consider the petitioner's application submitted in Form 'W', followed by the representations given to the first respondent on 1/9/2015, 6/9/2015 and 3/11/2015 together with an application filed by the petitioner under Section 42 (5) of the Tamil Nadu Value Added Tax Act r/w. Rule 12 (1) of the Tamil Nadu Value Added Tax Rules.

6. It is seen that the representations have been made only to the first respondent. Therefore, to enable the third respondent, to consider the matter on merits, there will be a direction to the first respondent, to place the entire files pertaining to the refund claim, before the third respondent, who shall consider the claim, within a period of four weeks, after affording an opportunity of personal hearing to the petitioner.

7. With the above direction, this writ petition is disposed of. No costs.

Sd/
ASSISTANT REGISTRAR(CS-III)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

mvs.

To

1. The Assistant Commissioner - CT
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   - TN, O/o Commissioner of Commercial Taxes
   Ezhilagam, Chennai 600 005.

   +1 CC to MR.G.Vijayakumar Advocate. SR.NO.67682
   +1 CC to Govt.Pleader. SR.NO.67906

W.P.No.38708 of 2015

CO-PUR
JD 05/01/2016