IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.9313 of 2015

M/s. Greenway Tradings
rep. by its Partner, P.Ganesamoorthi
... Petitioner

- Vs -

1.State of Tamilnadu,
rep. by the Secretary to Government,
Department of Commercial Taxes,
Fort St. George, Chennai.

2.The Joint Commissioner of Commercial Taxes,
Enforcement, Coimbatore,

3.The Commercial Tax Officer,
Special Circle - II,
Tirupur.
... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the respondents to forthwith refund a sum of Rs.4,54,538.60, being the VAT tax amount due to the petitioner with interest @ 24% per annum from the date of which, the amount became due till the date of disbursement.

For Petitioner : Mr.Bharathachakravarthi
for M/s. Sai Bharath & Illan

For Respondents : Mr.Manoharan Sundaram, AGP (T)

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), who accepts notice for the respondents. With the consent of the learned counsel on either side, the main writ petition itself is taken up for hearing at the admission stage itself.

2. The petitioner has come forward with this writ petition for the issue of a Writ of mandamus directing the respondents to

forthwith refund a sum of Rs.4,54,538.60, being the VAT tax amount due to the petitioner with interest @ 24% per annum from the date of which, the amount became due till the date of disbursement.

3. The case of the petitioner is that, it is in the business of exporting edible oil and similar commodities and a registered dealer under Tamil Nadu Value Added Taxes Act. The petitioner after receiving the purchase order from overseas buyer, will raise the sales invoice in order to obtain payment from the buyer. After receipt of the same, the petitioner would send the same to the supplier for getting goods. Thus, the petitioner has followed the procedures by raising bill of lading and other documents.

4. After considering the bill of lading along with bank statement of the petitioner and after through verification of the same, the second respondent ordered refund of the amount to the petitioner with regard to four claims out of six claims as could be seen from the order dated 02.06.2014 passed by the Joint Commissioner (CT), Coimbatore.

5. However, the said order has not been complied with and since the amount has not been refunded, the petitioner made a representation dated 10.12.2014.

6. Admittedly, the second respondent has passed an order for refund of the amount and the said order has become final as there is no appeal pending against the order, the petitioner's representation dated 10.12.2014 has to be considered.

7. In view of the above, this Court makes it clear that if the order dated 02.06.2014, has not been stayed by any Authority or Court, the petitioner is entitled to refund the amount as mentioned in the order dated 02.06.2014. Hence, the respondents are directed to refund the amount, if there is no other legal impediment, within a period of two months, from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

smi

To

1.The Secretary to Government,
State of Tamilnadu,
Department of Commercial Taxes,
Fort St. George, Chennai.

2.The Joint Commissioner of Commercial Taxes,
Enforcement, Coimbatore,

3.The Commercial Tax Officer, Special Circle - II, Tirupur.

1 cc to M/s. Sai Bharath & Illan ,Advocate, SR.No.18326
1 cc to Spl.Government Pleader(T),Sr.No18242

W.P.9313 of 2015

sai(co)
pmk.16.4.2015