BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD)No.19279 of 2015

Tvl.Senthil Murugan Timber,
Represented by its Proprietor,
N.Shanmuga Sundaram ..Petitioner

Vs

The Commercial Tax Officer(Additional),
Commercial Tax office,
No.37, Salai Road,
Centre Plaza, KTM Kasim Centre,
Ramanathapuram - 623 501. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS directing the respondent to refund the excess tax amount of Rs.2,75,844/- paid by the petitioner for the assessment year 2009-2010(TNVAT) together with interest @ 6% per annum from 04.06.2014 onwards till the date of refund.

For Petitioner :Mr.R.Veeramanikandan
For Respondent :Mr.R.Karthikeyan,
Additional Government Pleader

ORDER

The Writ Petition has been filed praying for a Writ of Mandamus directing the respondent to refund the excess tax amount of Rs.2,75,844/- paid by the petitioner for the assessment year 2009-2010(TNVAT) together with interest @ 6% per annum from 04.06.2014 onwards till the date of refund.

2. Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondent.

3. By consent, the Writ Petition itself is taken up for final disposal.

4. In the affidavit it has been averred that the petitioner Concern is doing timber business. They had reported a total taxable turnover of Rs.37,77,072/- for the assessment year 2009-2010. There was inspection in the petitioner premises and pursuant to the said inspection, the respondent has passed the revised assessment order in TIN.No.33595441661/2009-10, dated 15.02.2013 by enhancing the turnover and also levied penalty. The said order of the respondent was challenged by the petitioner by way of filing appeal before the appellate authority. The appellate authority passed an order deleting the entire suppression and penalty levied by the respondent and has added adhoc addition for the alleged defects noticed at the time of inspection. Thereafter, the respondent has passed on order, dated 05.03.2014 giving effect to the order of the appellate authority. After taking into

account the tax paid, there is excess payment of tax of Rs.2,75,844/- and the same was also shown in the said order of the respondent. Thereafter, the Department has not preferred an appeal. But, however no refund voucher was issued to the petitioner. In this regard, the petitioner has also made a representation before the respondent on 11.11.2014 and 26.06.2015. Since the same was not considered so far, the petitioner has come forward with the present Writ Petition for the above stated relief.

5. Considering the submission made by the learned counsel for the petitioner, without going into the merits of the averments made in the Writ Petition, this Court directs the respondent to consider the representation of the petitioner, dated 26.06.2015 and pass appropriate orders with regard to refund of excess tax amount of Rs.2,75,844/- paid by the petitioner, on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of. No Costs.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar.

To

The Commercial Tax Officer(Additional),
Commercial Tax office,
No.37, Salai Road,
Centre Plaza, KTM Kasim Centre,
Ramanathapuram - 623 501.

+1CC to Mr.B.Rooban, Advocate SR.No.63245.

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AM/05.11.2015/GSV.PM/SAR-II/2P/3C