BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.(MD)No.602 of 2015

Excellent Cashew Company,
Rep by its Partner,
A.Shajahan, Mancaud, Painkulam,
Kanyakumari District. : Petitioner

Vs.

The Assistant Commissioner of Commercial Taxes,
Kuzhithurai, Kanyakumari District. : Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus directing the respondent to act on the representation of the petitioner dated 11.11.2014 and give effect to the order of the Sales Tax Appellate Tribunal, [Additional Bench], Madurai, in MTA No.6 of 2011, dated 04.01.2012 for the assessment year 1993 - 1994 and consequently refund to the petitioner with interest, any excess tax paid by the petitioner as per Section 24 (4) of the Tamil Nadu General Sales Tax, read with Rule 34 of the Tamil Nadu General Sales Tax Rules.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R

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Mr.A.Muthukaruppan, learned Additional Government Pleader, takes notice for the respondents. By consent, the Writ Petition is taken up for disposal at the stage of admission itself.

2. The petitioner has come up with the present Writ Petition seeking a Writ of Mandamus directing the respondent to act on the representation of the petitioner, dated 11.11.2014, and give effect to the order of the Sales Tax Appellate Tribunal, [Additional Bench], Madurai, in MTA No.6 of 2011, dated 04.01.2012 for the assessment year 1993 - 1994 and consequently refund to the petitioner with interest, any excess tax paid by the petitioner, as per Section 24(4) of the Tamil Nadu General Sales Tax, read with Rule 34 of the Tamil Nadu General Sales Tax Rules.

3. The only grievance of the petitioner is that in spite of the order dated 04.01.2012, passed by the Tamil Nadu Sales Tax Appellate Tribunal [Additional Bench], Madurai, modifying the assessment and granting relief to the petitioner, the said order has not been given effect to till date. In this regard, the petitioner submitted a representation on 11.11.2014. In support of his contention, the learned counsel relies upon Section 24(4) of the Tamil Nadu General Sales Tax, read with Rule 34 of the Tamil Nadu General Sales Tax Rules, which says that every order passed by the Sales Tax Appellate Tribunal shall be

given effect to within a reasonable time. However, in the case on hand, after lapse of two years, the order of the Sales Tax Appellate Tribunal has not been implemented.

4. The learned Additional Government Pleader appearing for the respondent would submit that the representation of the petitioner, dated 11.11.2014, will be considered on merits and in accordance with law, after giving due opportunity to the petitioner.

5. In such view of the matter, the respondent is directed to consider the representation of the petitioner, dated 11.11.2014, taking into consideration of the order of the Sales Tax Appellate Tribunal, [Additional Bench], Madurai, in MTA No.6 of 2011, dated 04.01.2012 and pass appropriate orders on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of on the above terms. No costs.

Sd/-
Assistant Registrar(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar

To

The Assistant Commissioner of Commercial Taxes,
Kuzhithurai, Kanyakumari District.

+1cc to Mr.M.Azeem,Advocate, SR.No.2400
+1cc to Special Govt.Pleader SR.No.2535

ORDER MADE IN
W.P.(MD)No.602 of 2015
20.01.2015

NB
PA/09.02.15/2P/4C