IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2016

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.18956 of 2016 and
WMP.No.16525 of 2016

M/s.KAFF Appliances (INDIA) Pvt. Ltd.,
No.229, Royal Park, First Floor,
Konnur High Road, Ayanavaram,
Chennai - 600 023. ... Petitioner

Vs

1.The State of Tamil Nadu
Represented by the Secretary to the Government,
Department of Commercial Taxes,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Assistant Commissioner (CT),
Ayanavaram Assessment Circle,
Chennai - 600 010. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in the impugned order in CST No.872870/2012-2013 dated 08.07.2015 and quash the same and further direct the 2nd respondent to pass revision order after providing the petitioner with opportunity of personal hearing and accepting the documents available with the petitioner like Lorry Receipts, Form - F, Trade Discount details, Turnover Details etc.

For petitioner ... Mr.R.Sridhar

For respondents ... Mr.Manokaran Sundaram
Additional Government Pleader

ORDER

The petitioner is a Company registered under the Companies Act, are dealers in Kitchen Appliances and registered under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956 and an assessee on the file of the 2nd respondent. In the order impugned in this writ petition is an order of assessment for the year 2012-2013.

2.The learned counsel for the petitioner after elaborately referring to the factual position pointed out that there are errors which are apparent on the face of the impugned order and in order to demonstrate the same, it is pointed out that though in the body of the impugned order, the assessing officer has allowed exemption on turnover, in the operative portion of the order in paragraph 3, the same has been omitted to be mentioned. Further, it is stated that in respect of interstate sales covered by 'C' Forms taxable at 2%, there is a calculation error and apart from that, the petitioner has other Form 'F' in their custody which were made availably only after the audit. Therefore, the petitioner seeks for one more opportunity.

3.The learned Additional Government Pleader appearing for the respondents submitted that if there are any errors which are apparent on the face of the record, it is always open to the petitioner to file a petition under Section 84 of the Act and the authority could be directed to be considered. It is to be pointed out that the impugned order was passed on 08.07.2015 and the petitioner has approached this Court only now.

4.Be that as it may, since the petitioner points out that certain errors which prima facie appear to be apparent on the face of the record, this Court is inclined to grant liberty to the petitioner to approach the authority by filing an application under Section 84 of the Act. Accordingly, the writ petitioner is directed to file an application under Section 84 of the Act within a period of two weeks from the date of receipt of a copy of this order along with necessary documents in support of their claim. If such application is filed, the 2nd respondent shall afford an opportunity of personal hearing to the petitioner and pass orders on merits and in accordance with law.

5.With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

sgl

To
1.The State of Tamil Nadu
Represented by the Secretary to the Government,
Department of Commercial Taxes,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Assistant Commissioner (CT),
Ayanavaram Assessment Circle,
Chennai - 600 010.

+1 cc to Special Government Pleader(Taxes) sr.29929
+1 cc to Mr.R.Sridhar Advocate sr.29781

W.P.No.18956 of 2016

vs(co)
aa15/06/2016