IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24615 of 2016 &
W.M.P.No.21025 of 2016

Rotork Controls (India) Private Limited,
Represented by its Managing Director,
K.Ravi Shankar,
28B Ambattur Industrial Estate (North),
Ambattur, Chennai 600 098. .. Petitioner

Versus

The Assistant Commissioner (CT),
Patravakkam Assessment Circle,
127, II Floor Yadhaval Street,
Padi, Chennai - 600 050. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for records on the files of the Respondent herein in CST No.46998/2014-15, dated 24.06.2016, to quash the same with the direction to the respondent to consider the declaration forms to an extent of Rs.3,01,85,950/- and return the defective declaration forms to an extent of Rs.6,11,14,653/- and re-do the assessment, after providing an opportunity of being heard in accordance with law.

For Petitioner: Mr. N.Inbarajan

For Respondent: Mr. S.Kanmani Annamalai, AGP.,

O R D E R

Heard Mr.N.Inbarajan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent. By consent of the learned Counsel appearing for both sides, the Writ Petition is taken up for final disposal.

2. The Petitioner is a registered dealer on the file of the respondent, under the provisions of the Central Sales Tax Act, 1956, and the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act). In this writ petition, the petitioner challenges the order of assessment, dated 24.06.2016, under the Central Sales

Tax Act, for the year 2014-15, in so far as it pertains to the levy of Tax on interstate sales turnover, covered by defective 'C-Forms' and interstate sales turnover not covered by 'C-Forms'.

3. The learned Counsel for the petitioner submitted that in response to the pre-revision notice, the petitioner had submitted 'C-Forms', Form-X extract, Form-I, Form-F and copies of Export documents for verification and for completing the assessment. It appears that the respondent found that certain 'C-Forms' were defective and certain 'C-Forms', in his opinion, cannot be accepted. However, without affording an opportunity to the petitioner to rectify the defects, the respondent had completed the assessment. Only on seeing the order of assessment, the petitioner came to know that certain 'C-Forms' were not accepted and the respondent has accepted the 'C-Forms' only to the extent of interstate sales turnover of Rs.51,25,47,059/-. Therefore, the petitioner submitted that they are ready and willing to appear before the authority and they may be permitted to take back the defective 'C-Forms' and the petitioner, after rectification of the defects, if any, will resubmit the forms along with other forms.

4. In fact, to this effect, the petitioner had given a letter, dated 28.06.2016, to the respondent in-person, on 29.06.2016, requesting for return of the defective 'C-Forms', to enable them to rectify the defect. Further, the petitioner, in the said letter, has stated that they have collected 'C-Forms' for the turnover of Rs.3,03,79,970/- and taking appropriate action for collection the remaining 'C-Forms'. Since this representation made by the petitioner, vide letter, dated 28.06.2016, was not considered, the petitioner has approached this Court by filing this Writ Petition.

5. In the Counter affidavit, the respondent has accepted the fact that the petitioner had given a representation dated 28.06.2016.

6. Though the respondent has accepted the receipt of the representation dated 28.06.2016, the stand taken in paragraph no.10 of the counter affidavit is incorrect, since there are several decisions as well as circulars of the commissioners, which state that defective forms, such as 'C-Forms', 'Form-F' etc., should be returned, so that the dealer is given an opportunity to rectify the defects.

7. In the light of the above, there will be a direction to the petitioner to appear before the respondent, within a period of two weeks from the date of receipt of a copy of this order to produce the 'C-Forms', which are available with them and on the said date, the respondent shall return the

defective 'C-Forms' and within a period of two weeks thereafter, the defects should be rectified by the petitioner and the 'C-Forms' should be resubmitted. While resubmitting those forms, it is open to the petitioner to submit the fresh 'C-Forms', if, by then, they have acquired, and on receipt of the same, the respondent shall exercise his powers under Section 84 of the TNVAT Act, and re-do the assessment, under the said two heads alone, by passing a speaking order, on merits and in accordance with law.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (CT),
Patravakkam Assessment Circle,
127, II Floor Yadhaval Street,
Padi, Chennai - 600 050.

1 cc to M/s.N.Inbarajan, Advocate, sr.44842
1 cc to Special Government Pleader, (Taxes), sr.45253

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kra 02.09.2016