

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-08-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.28386 of 2016

K.H.Leather Industries Private Limited
represented by its Director
Akber Hussain
266, Periyar EVR High Road
Kilpauk
Chennai-600 010.

.. Petitioner

Vs.

The Assistant Commissioner (CT)
Kilpauk Assessment Circle
Daulath Towers
7th Floor
Taylors Road
Chennai-600 010.

.. Respondent

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondent herein to issue refund orders in Form P (notice of refund order) along with form of authorization for payment of bills in MTC 103, Enfacement slip refund voucher, and the certificate for the period from December 2013 till February 2016 for which the petitioners have filed Form W before the respondent herein or pass such further orders as may be deemed fit and proper in the circumstances of the case.

For Petitioner :Mr.N.Inbarajan

For Respondent :Ms.Vasudha Thiagarajan
Additional Government Pleader

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O R D E R

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondent herein to issue refund orders in Form P (notice of refund order) along with form of authorization for payment of bills in MTC 103, Enfacement slip

refund voucher, and the certificate for the period from December 2013 till February 2016 for which the petitioners have filed Form W before the respondent.

3. The petitioner is engaged in the manufacture of shoe uppers and finished shoes and he is a registered dealer on the file of the respondent. The sales of the petitioner are covered under Section 18 of the Value Added Tax Act, 2006, as "Zero Rate Sales" as defined under Section 2(44) of the VAT Act, 2006, therefore, the petitioner is eligible and entitled to refund of input tax paid by him on purchase of goods used in the manufacture of finished leather. The petitioner has filed the application in Form W claiming refund on the zero rate sales effected by him, within the time limit. The grievance of the petitioner is that the respondent has a mandatory duty to issue refund within 90 days from the date of receipt of the application in Form W, but the same was not done and hence, seeking a direction to the respondent to issue refund order in Form P as provided under Section 18(3) of the VAT Act, 2006, read with Rule 12(2) of the Tamil Nadu VAT (Rules), 2007, the present Writ Petition has been filed.

4. Mr.N.Inbarajan, the learned counsel appearing for the petitioner would point out that as per Section 18(3) of the VAT Act, 2006, read with Rule 12(2) of the Tamil Nadu VAT (Rules), 2007, the respondent has a mandatory duty to issue refund within 90 days from the date of receipt of the application in Form W, inspite of the fact that the petitioner is eligible to refund of tax paid by him from December 2013 onwards and it has been quantified as early as in the year 2015 itself, till date, the respondent has not chosen to refund and his application in Form W is pending.

5. Ms.Vasudha Thiagarajan, the learned Additional Government Pleader, who took notice for the respondent, would submit that the petitioner's application in Form W will be considered and appropriate orders will be passed, as early as possible.

6. Taking into consideration that the application filed by the petitioner in Form W claiming refund is pending with the respondent for more than one and half years, suffice it to state that the respondent shall consider the application in Form W for refund and pass appropriate orders, within one month from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.

7. The Writ Petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

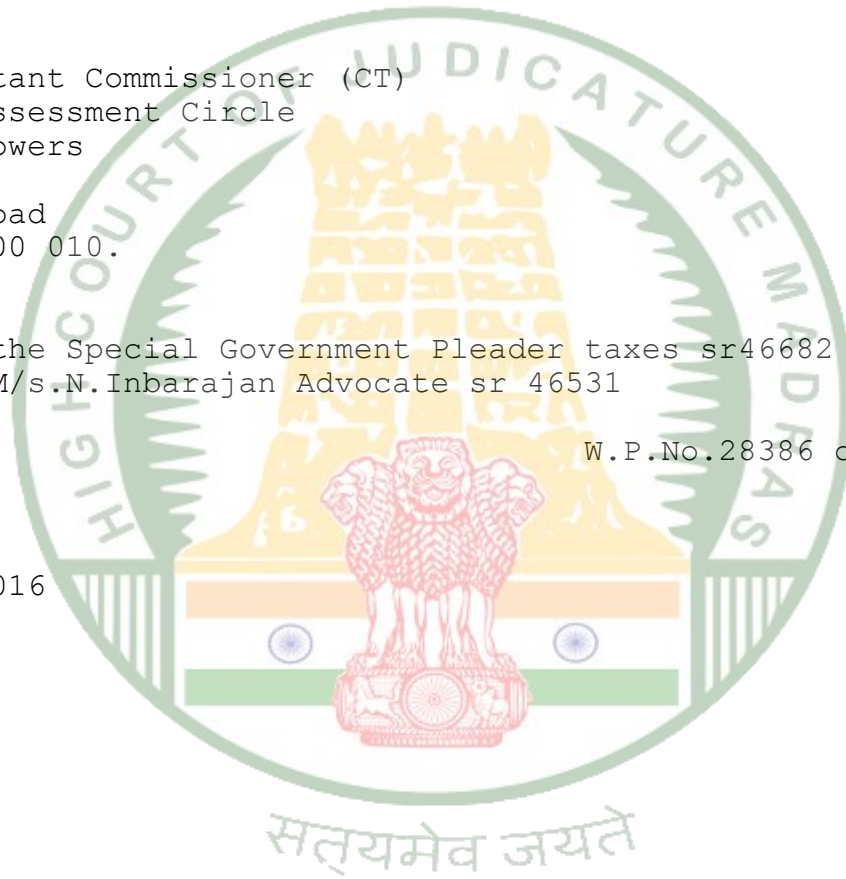
To

The Assistant Commissioner (CT)
Kilpauk Assessment Circle
Daulath Towers
7th Floor
Taylors Road
Chennai-600 010.

+1 cc to the Special Government Pleader taxes sr46682
+1 cc to M/s.N.Inbarajan Advocate sr 46531

W.P.No.28386 of 2016

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