IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29595 of 2016

M/s.Alkraft Thermo Technologies Pvt. Ltd.,
Rep. by its General Manager - Finance,
Mr.P.Sirajudeen,
35-A & B/11, Ambattur Industrial Estate,
Chennai - 600 058. .. Petitioner

Versus

The Assistant Commissioner (CT),
Patravakkam Assessment Circle,
No. 127, 2nd 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 of Respondent's Impugned Order dated 24.05.2016 bearing CST/651756/2013-14 in so far as the impugned order fails to address the issue relating to Sales Return, Cash Discount and Return of Stock Transferred Goods and to quash the same and consequently direct the respondent to pass a revised assessment order for the Assessment Year CST 2013-14 based on the petitioner's representation dated 10.07.2016.

For Petitioner : Ms. S.Thenmozhi
For Respondent : Ms. Vasudha Thiagarajan, AGP,

O R D E R

Heard Ms.S.Thenmozhi, learned counsel appearing for the petitioner and Ms.Vasudha Thiagarajan, 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 manufacturer and dealer of Aluminum Radiators, Inter Coolers and Oil Coolers and registered with the Respondent Department under the provisions of Tamil

Nadu Value Added Tax Act, 2006 (hereinafter called as TNVAT Act) and Central Sales Tax Act, 1956 (hereinafter called as CST Act). The assessment under the CST for the year 2013-14 was completed vide order dated 10.06.2015 for total turnover of Rs.37,46,68,612/-. The turnover which was covered by C-Forms were assessed at the rate of 2%, not covered by C-Forms and F-Forms were assessed at the rate of 14.5% and the assessment order also demanded tax for the defective C-Forms.

3. The petitioner submitted a representation which was considered by the respondent and the tax liability was reduced and the taxable turnover was determined vide order dated 05.01.2016. In the mean time, the petitioner received C-Forms and F-Forms and approached the respondent to accept the same and to redo the assessment. However, this was refused to be accepted by order dated 05.01.2016.

4. The petitioner challenged the assessment order by filing a writ petition in W.P.No.10535 of 2016. The said writ petition was allowed by order dated 21.03.2016 by setting aside the order of the first assessment dated 05.01.2016 and remanded the case for fresh consideration.

5. While on remand, the respondent accepted the C-Forms and revised the assessment. However, with regard to the sales return and cash discounts, the respondent refused to consider the same as there was no specific direction to the said effect in the earlier writ petition. Therefore, the petitioner has approached this court challenging the order of revised assessment dated 24.05.2016.

6. It may be true that in the earlier writ petition No.10535 of 2016, the court passed order dated 21.03.2016, whereby the matter was remanded to the respondent for fresh consideration and the petitioner was directed to produce C-Forms, F-Forms and the Export Turnover and the authority was directed to decide the matter afresh. However, the Assessing Authority, being a statutory authority, would also have the power to redo the assessment, moreso, when the Court directed to redo the matter. Thus, if the petitioner has made a statement with regard to the sales return and cash discount and produced the necessary documents, it is always open to the assessing officer to take into consideration those documents and take a decision in the matter. Therefore, the respondent need not restrict himself only with regard to the C-Forms and F-Forms and if the petitioner is legally entitled for any other relief then that may be considered.

7. Accordingly, the Writ Petition is allowed and the impugned order, insofar as it has rejected the petitioner's case relating to Sales Return, Cash Discount and return of stock

transferred goods are concerned, are set aside and the respondent is directed to redo the assessment on these heads afresh, after affording an opportunity of personal hearing to the petitioner. No Costs.

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s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

pvs / rkm

To

The Assistant Commissioner (CT),
Patravakkam Assessment Circle,
127, 2nd Floor Yadhaval Street,
Padi, Chennai - 600 050.

+1 cc to Mr.C.Saravanan Advocate sr 49326
+1 cc to Special Government Pleader Taxes sr 49116

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