IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 07.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.31164 of 2016

SD Packers,
Room No.3, 1st Floor,
Rep. by its Partner,
Door No.72/80, Moore Street,
Chennai-600 001. .. Petitioner

Versus

1.The Assistant Commissioner (CT),
Korattur Assessment Circle,
No.82/98, 2nd Floor,
Yadaval Street,
Padi, Chennai-600 050.

2.The Principal Secretary /
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the first respondent herein to direct and quantify refund amount in Form P, as per Rule 10(10)(b) of the TNVAT Act 2006 as the accumulated ITC determined by the first respondent while passing VAT Assessment Orders under TNVAT Act, 2006 relating to the Assessment years 2009-10, 2010-11, 2011-12 & 2012-13 and issue cheques accordingly.

For Petitioner : Mr.N.Murali

For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.N.Murali, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for disposal.

2. In this Writ petition, the petitioner seeks for a

direction upon the first respondent, the Assistant Commissioner (Commercial Taxes), Korattur Assessment Circle to consider their representation, dated 16.08.2016, wherein, they sought for refund of the excess tax which has been collected for the Assessment years 2009-10 to 2012-13.

3. It appears that the petitioner's entitlement is not in dispute as the Assessment Orders have resulted in refund. Therefore, the petitioner about one year back submitted common representations dated 23.09.2015 and 05.11.2015, for all the four Assessment years, requesting for issuing refund vouchers. However, the respondents have not passed any orders on the same. Therefore, the petitioner addressed letters dated 16.08.2016 to the respondents, which also did not evoke any response. Therefore, the petitioner is before this Court.

4. This Court would wish to point out that the zeal of the Department in collecting the tax should also apply to cases where the refunds are to be granted. When the order of Assessment has resulted in a positive order in favour of the assessee as a result of which, whatever excess taxes collected or adjusted should be refunded, the Authority should be prompt in effecting refund. Therefore, it appears that there is no valid reason for the respondents to keep the petitioner's requests dated 23.09.2015 and 05.11.2015, for refund vouchers pending for almost one year.

5. In the light of the above, there will be a direction to the first respondent to consider the petitioner's representation dated 16.08.2016 and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

r n s

To
1.The Assistant Commissioner (CT),
Korattur Assessment Circle,
No.82/98, 2nd Floor,
Yadaval Street,
Padi, Chennai-600 050.

2.The Principal Secretary /
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

1 cc to Mr.N.Murali, Advocate, sr.50867
1 cc to Special Government Pleader(Taxes), sr.50844

W.P.No.31164 of 2016

sv co
kra 22.09.2016