IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.32827/2016 & WMP.No.28376/2016

M/s.R.K.Herbals Pvt Ltd
rep.by its Managing Director
Mr.V.Kannan, Nellikuppam Road
Kondur, Cuddalore Taluk. .. Petitioner

..Vs..

The Commercial Tax Officer
Cuddalore Assessment Circle
Cuddalore 607 001. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of mandamus directing the respondent to refund the excess amount of sales tax paid being Rs.57,84,088/- pursuant to the order of the Tamil Nadu Sales Tax Appellate Tribunal order passed in TA.No.527/99 and COP No.827/99 dated 12.10.2009 along with the penal interest at 12% under section 24[4] of the Tamil Nadu General Sales Tax Act, 1959, read with rule 32[2] of the Tamil Nadu General sales Tax Rules 1959 till the date of refund [being Rs.46,27,270/-] from 26.10.2009 till 01.09.2016.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.K.Venkatesh, GA [Taxes]

ORDER

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate [Taxes] accepting notice on behalf of the respondent and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner seeks for a direction upon the respondent to refund the excess of the sales tax paid by the petitioner pursuant to the order passed by the Tamil Nadu Sales Tax Appellate Tribunal in Ta.No.527/99 and COP No.827/99 dated 12.10.2009 along with the penal interest. In this regard, the

petitioner has filed a refund application on 12.09.2012 along with Form No.XXXIII under Rule 23-A of the Tamil Nadu Value Added Tax Rules. This application was not disposed of and it is kept pending. Therefore, the petitioner submitted another representation on 01.09.2016 once again enclosing the statutory Form and this has been sent by Speed Post and said to have been received by the respondent. However, till date, no orders have been passed on the refund applications.

3 The learned Government Advocate [Taxes] appearing for the respondent would submit that it is not known as to whether any appeal has been preferred against the order passed by the Sales Tax Appellate Tribunal.

4 If that be the case, then the dealer is entitled to know about the same and the respondent should inform the dealer in writing. If no appeal has been preferred against the said order of the Tribunal, then it goes without saying that the respondent has the statutory duty to consider the application for refund.

5 In the light of the above, the writ petition is disposed of by directing the respondent to consider the application submitted by the petitioner for grant of refund dated 12.09.2012 followed by a fresh application dated 01.09.2016 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer
Cuddalore Assessment Circle
Cuddalore 607 001.

+1cc to the Special Government Pleader Sr.53515
+1cc to Mr.V.Sundareswaran, Advocate sr.53827 [15/12/2016]

W.P.No.32827/2016

scd[co]
srg 06/10/2016