IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34437 of 2016

Sulochana Cotton Spinning Mills Pvt. Ltd.,
Tiruppur .. Petitioner

vs.

1.The Commercial Tax Officer
Tirupur South
Assessment Circle
Tirupur.

2.The Assessing Authority
Assistant Commissioner (CT)
Tirupur South, Tirupur.
.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the respondents to consider and dispose of the representation of the petitioner dated 11.08.2016 to refunding the sum of Rs.1,00,000/- for the assessment year 1997-1998 vide Form-C dated 11.07.2016 and a sum of Rs.9,78,630/- for the assessment year 1998-1999 vide Form-C dated 11.07.2016 along with interest from 01.03.2001 to 31.07.2016 to the petitioner.

For Petitioner : Mr.M.Rajasekhar

For Respondents : Mr.K.Venkatesh
Govt. Advocate (Taxes)

O R D E R

Heard Mr.M.Rajasekhar, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate (Taxes) appearing for the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for disposal.

2.The petitioner-Company, which is a registered dealer on the file of the second respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act], has approached this Court for a direction to the respondents to consider and dispose of their representation dated 11.08.2016, for refund of the amounts for which already Form C has been issued by the second respondent.

3.Earlier, the petitioner came before this Court and filed W.P.No.17611 of 2016, for a direction to the first respondent to assess their sales tax for the years 1997-98 and 1998-99, as per the directions of the Sales Tax Appellate Tribunal in Appeal Nos.489 and 490 of 2002 dated 26.3.2010. The Court after taking into consideration of the facts and that the Revenue has not preferred any further appeal as against the order passed by the Sales Tax Appellate Tribunal, by an order dated 01.06.2016, directed the first respondent to consider the petitioner's representation and if there was no legal impediment, redo the assessment, after affording an opportunity of personal hearing to the petitioner and pass appropriate order within a time frame. Further, it was ordered that as a consequence of redoing the assessment, if the petitioner was entitled to refund, the same shall also be effected in accordance with law.

4.The second respondent understood the order and direction in a proper perspective, took up the matter for consideration and passed revised assessment orders in tune with the directions contained in the order passed by the Sales Tax Appellate Tribunal in its order dated 11.07.2016, for both assessment years. As a consequence of which, the petitioner was entitled for refund of excess tax paid i.e. for the year 1997-98, the petitioner was entitled for revision of Rs.1,00,000/- (Rupees One Lakh only) and for 1998-99 a sum of Rs.9,78,630/- (Rupees Nine lakh seventy eight thousand six hundred and thirty only). Apart from that, the second respondent also issued Form-C dated 11.7.2016, which confirms that the petitioner is entitled for refund. Though, that order was issued on 11.07.2016, till date, payment voucher has not been released. The petitioner in the meantime, submitted representation dated 11.08.2016, not only for payment of the amount they are entitled to, but they also made claim for interest.

5.Thus, considering the above facts and circumstances of the case and since already Form-C has been issued by the second respondent, there may not be any impediment for effecting the refund and issuing payment voucher. The petitioner's claim for interest also merit acceptance, if within three months from the date of the date of sanction, the amount has not been paid. Therefore, there will be a direction to the respondents to effect refund and issue payment voucher, within a period of two weeks from the date of receipt of a copy of this order and also effect the payment of admissible interest in accordance with law, within a period of three weeks thereafter.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rpa

To

1.The Commercial Tax Officer
Tirupur South
Assessment Circle
Tirupur.

2.The Assessing Authority
Assistant Commissioner (CT)
Tirupur South, Tirupur.

+1 CC to The Special Pleader (Taxes) SR.No.56136

+1 CC to M/S.M.Raja Sekhar, Advocate SR.No.56059

CO-SAI
ths : 22.10.2016

W.P.No.34437 of 2016