IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2016

CORAM :

The Hon'ble MR.JUSTICE RAJIV SHAKDHER

W.P. No.43136 of 2016

Tvl.Plas-Tech Automations,
Rep. By its Proprietor, Hosur. .. Petitioner

-vs-

The Assistant Commissioner (CT),
Hosur South, Hosur. .. Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondent to accept the statutory form C Forms filed by the petitioner vide representation dated 21.10.2016 and re-open the assessment made by him vide order in CST.No.1046577/2015-16 dated 19.09.2016.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.Kanmani Annamalai
Spl.G.P. (Tax)

O R D E R

Notice. Mr.Kanmani Annamalai, learned Special Government Pleader (Tax) accepts notice for the respondent. With the consent of learned counsel for parties, the writ petition is taken up for final disposal.

2.The substantive prayer made in the writ petition is as follows:

> ''Issue of Writ of Mandamus or any other appropriate Writ, order or direction, directing the respondent to accept the statutory form, 'C' Forms filed by the petitioner vide representation dated 21.10.2016 and re-open the assessment made by him vide Order in CST.No.1046577/2015-16 dated 19.09.2016.''

3.The background on which the instant writ petition has been filed is as follows:

The petitioner, evidently, has been issued with a Show Cause Notice (in short 'SCN') dated 14.09.2016 on his failure to submit statutory forms ('C' Form) for claiming of concessional rate of tax. Consequently, in the SCN, the petitioner was called upon to demonstrate as to why tax at the rate of 14.5% ought not to be levied in respect of inter-state sales.

4.The aforesaid SCN was followed by an assessment order dated 19.09.2016.

5.In view of the circumstances then prevailing, it is stated that the petitioner was unable to collect statutory 'C' Forms from its customers / third parties.

6.It appears that the petitioner thereafter collected the statutory 'C' Forms and made a representation to the assessing officer to consider the same. In effect, the petitioner seeks re-opening of the assessment and for this purpose, he relies upon the judgment of this Court in the case of Audio People vs. Commercial Tax Officer, Pondy Bazaar Assessment Circle, MANU/TN/0680/2016.

7.Having heard the learned Special Government Pleader for the respondent, Mr.Kanmani Annamalai, I am inclined to allow the writ petition. The reason being that this Court has already ruled in State of Tamil Nadu vs. Arulmurugan and Company, (1982) 51 STC 381 (Mad) (FB), that in such like cases, the assessment may be re-opened if sufficient cause is shown for the delay in filing the 'C' Forms and after ascertaining the correctness and genuineness of the 'C' Forms, revised assessment orders be passed. The decision in Arulmurugan and Company's case, which was passed by a Full Bench of this Court, has been followed by a learned Single Judge of this Court in Audio People vs. Commercial Tax Officer, Pondy Bazaar Assessment Circle, MANU/TN/0680/2016, supra.

8.Therefore, as indicated above, the respondent will consider the representation of the petitioner dated 21.10.2016 and while doing so, will proceed with the matter in the light of the ratio of the decisions adverted to above.

9.Writ petition, accordingly, stands allowed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sra

To

The Assistant Commissioner (CT),
Hosur South, Hosur.

1 cc to Special Government Pleader (Taxes), Sr. 73049

W.P.No.43136 of 2016

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