IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

W.P.No.9580 of 2016
and
W.M.P.No.8614 of 2016

M/s.Aar Kay Plastics,
Represented by its Proprietor,
Mr.Arunkumar Agarwal. ... Petitioner

Vs.

The Assistant Commissioner (CT)
Madhavaram Assessment Circle,
Chennai. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent in CST No.615550/2013-2014 dated 05.02.2016 and quash the same.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader(T)

O R D E R

The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for the records of the respondent dated 05.02.2016 and quash the same.

2. It is the case of the petitioner that the respondent had passed the impugned order reversing the input tax credits invoking Sections 19(5)(c) and 19(2)(v) of the TNVAT Act and raised demand of Rs.1,89,582/-. Since the petitioner had excess input tax credit of Rs.4,49,196/- in the month of November 2015, while filing the monthly return for the month of November 2015, the petitioner adjusted the excess input tax credit of Rs.4,49,196/- against the arrears of tax of Rs.1,89,582/-. It is very clear from the monthly return filed by the petitioner for the month of November 2015, both through e filing and manual filing, the petitioner had adjusted the

excess input tax credits of Rs.4,49,196/- against the arrears of tax of Rs.1,89,582/-. However, the respondent had issued the impugned recovery notice to the petitioner demanding the tax of Rs.1,89,582/-. The petitioner had sent two letters on 23.12.2015, requesting for reversal of input credit of Rs.1,89,582/-. However, the respondent without considering the two letters sent by the petitioner on 23.12.2015, had passed the impugned order.

3. Mr.S.Kanmani Annamalai, the learned counsel appearing for the respondent submitted that since the request made by the petitioner on 23.12.2015 was not considered, the respondent may be directed to decide the matter afresh.

4. In these circumstances, since the respondent had passed the impugned order without considering the petitioner's request made in their letters dated 23.12.2015, the impugned order is liable to be set aside. Accordingly, the same is set aside. The respondent is directed to decide the matter afresh, after taking into consideration the two letters written by the petitioner dated 23.12.2015 and after affording due opportunity of personal hearing to the petitioner on merits and in accordance with law.

With these observations, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsm

To

The Assistant Commissioner (CT)
Madhavaram Assessment Circle,
Chennai.

+1cc to Mr.P.Rajkumar, Advocate, S.R.No.17941
+1cc to the Special Government Pleader(T), S.R.No.17970

W.P.No.9580 of 2016

MP(CO)
CA(30/03/2016)