BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.10348 of 2016

M/s.Aruna Alloy Steels Pvt., Ltd.,
Rep. by its Director,
SV.Arunachalam,
Super B3, Industrial Estate,
Madurai-600 007. ... Petitioner

vs.

1)The Joint Commissioner,
(Commercial Taxes),
Madurai Division,
Dr.Thangaraj Salai,
Madurai-625 020.

2)The Assistant Commissioner (CT),
Tallakulam Assessment Circle,
Dr.Thangaraj Salai,
Madurai-625 020. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to consider and pass appropriate orders on the representation of the petitioner dated 24.12.2014 and on the basis of the communication of the 1st respondent in his proceedings Na.Ka.4431/2014/A2 dated 07.05.2015 relating to refund of Direct Export Refund and 100% export oriented units (EOU), within a time frame fixed by this Honourable Court.

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.R.Karthikeyan,
Additional Government Pleader

ORDER

M/s.Aruna Alloy Steels Private Limited, represented by its Director, Madurai, has sought for a Writ of Mandamus, directing the 2nd respondent to consider their representation dated 24.12.2014, on the basis of the communication of the 1st respondent in his proceedings Na.Ka.4431/2014/A2 dated 07.05.2015 relating to refund of Direct Export Refund and 100% Export Oriented Units (EOU), within a time frame.

2.The petitioner is a company registered under the Companies

Act, engaging in manufacturing of Rough Steel Castings. They effected zero rate sale and on that basis, they claimed input tax credit refund from the respondents department, by filing Form W in respect of 100% export oriented units (EOU) from March 2010 to June 2012. In addition thereto, they also filed Form W, towards Direct Export Refund for the months of January, February and March during the assessment year 2012-13 and for the months of April, May, June during the assessment year 2013-14. When Forms W were filed before the 2nd respondent within the statutory period, it is pleaded, the 2nd respondent also has acknowledged the same in the local delivery book maintained by the petitioner.

3.It is further submitted that the assessing authority, after verification of the correctness of the claim, shall issue refund within 90 days from the date of receipt of the application in Form W. Since the 2nd respondent failed to pass any order, in spite of repeated requests, the petitioner made a representation on 24.12.2012 to the 1st respondent, with a request to instruct the 2nd respondent to pass appropriate orders on Form W, relating to the direct export refund and 100% export oriented units (EOU). Finally, the 1st respondent by proceedings, dated 07.05.2015, directed the 2nd respondent to inform the petitioner about the action taken on his representation dated 24.12.2014. In spite of the same, no order has been passed by the 2nd respondent. Therefore, the petitioner has come to this Court.

4.Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondents.

5.When the petitioner has submitted his representation on 24.12.2014 to the 1st respondent with a request to instruct the 2nd respondent, to pass appropriate orders on Form W, relating to direct export refund and 100% export oriented units (EOU) and after sometime, when the 1st respondent also, by proceedings dated 07.05.2015 has directed the 2nd respondent to inform the petitioner about the action taken on his representation dated 24.12.2014, it is not known why the 2nd respondent has not acted on the directions of the 1st respondent. Therefore, the 2nd respondent is directed to consider the representation of the petitioner dated 24.12.2014 and pass appropriate 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.

This writ petition is disposed of accordingly. No costs.

Sd/
Assistant Registrar(CS II)

/True copy/

Sub Assistant Registrar

To

1)The Joint Commissioner,
(Commercial Taxes),
Madurai Division,
Dr.Thangaraj Salai, Madurai-625 020.

2)The Assistant Commissioner (CT),
Tallakulam Assessment Circle,
Dr.Thangaraj Salai, Madurai-625 020.

+1cc to M/s.B.Saravanan, Advocate in SR.No.30249
+1cc to Special Government pleader in SR.No.30501

SR/AAL-MPA/SAR II/16.06.2016/3P/5c

W.P(MD)No.10348 of 2016
13.06.2016