BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.09.2016
CORAM
THE HONOURABLE DR.JUSTICE S.VIMALA
W.P(MD)No.17626 of 2016

M/s.Thiagarajar Mills (P) Ltd.,
Represented by its Executive Director,
Mr.K.Thiagarajan,
Kappalur, Madurai. ... Petitioner

vs.

The Assistant Commissioner (CT)
Thirupparankundram Assessment Circle,
Commercial Taxes Building,
Dr.Thangaraj Salai,
Madurai. ... Respondent

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to give effect to the Tribunal order in MTA No.719/2000 dated 07.03.2011 by passing revised order and to refund the amount of taxes paid in excess along with interest due thereon as contemplated under Section 24(4) of the TNGST Act 1959.

For Petitioner : Mr.R.D.Ganesan
For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

This Writ of Mandamus has been filed to direct the respondent to give effect to the Tribunal order in MTA No.719/2000, dated 07.03.2011, by passing a revised order and to refund the amount of tax paid in excess along with interest due thereon, as contemplated under Section 24(4) of the TNGST Act 1959.

2.The grievance of the petitioner is that the order passed by the appellate authority has not been given effect to.

3.The learned counsel for the petitioner has relied upon a decision of this Court passed in similar circumstances in W.P(MD) No.4747 of 2007, dated 22.05.2007 and prayed for suitable order.

4.It is relevant to extract paragraphs 2 to 4 of the order made in W.P(MD)No.4747 of 2007, dated 22.05.2007:-

> ''2.The grievance of the petitioner is to the effect that the order passed by the appellate authority has not been given effect to.

3.The learned counsel for the petitioner has invited my attention to similar orders of this Court in W.P(MD) No.2911 of 2004 dated 01.11.2004 and W.P(MD)No.3401 of 2005 dated 08.12.2005, wherein direction has been issued to give effect to the appeal order within a time bound.

4.Following the ratio laid down in the above said orders, the present writ petition is disposed of with the observation that if the appeal order has not been stayed in any appeal proceedings, the order of the appellate authority shall be given effect to and the excess amount should be refunded with interest in accordance with Section 24(4) read with Rule 23-A of the Tamil Nadu General Sales Tax Act, 1959. This may be done within a period of four weeks from the date of receipt of a copy of this order. No costs.''

5.Following the order made in W.P(MD)No.4747 of 2007, dated 22.05.2007, this Writ Petition is disposed of with an observation that if the order of the Tribunal in MTA No.719/2000, dated 07.03.2011, is not stayed in any appeal proceedings, such order of the appellate authority shall be given effect to and the excess amount should be refunded with interest in accordance with Section 24(4) read with Rule 23-A of the Tamil Nadu General Sales Tax Act, 1959. This may be done within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To
The Assistant Commissioner (CT)
Thirupparankundram Assessment Circle,
Commercial Taxes Building,
Dr.Thangaraj Salai, Madurai.

+1 CC to M/s.R.D.GANESAN, Advocate, SR No.54902
+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No.54712

W.P(MD)No.17626 of 2016

nbi
SH/GSV-PM:24.10.2016:2P/4C