IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24-02-2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.Nos.1011 and 1016 of 2017
and W.M.P.Nos.990 and 1013 of 2017

M/s. Kamil Leathers
Rep.by its Partner K. Anees Ahmed
Having its Office at Door No.28/23,
Karpura Street
Periampet, Chennai - 600 003 .. Petitioner

Vs.

The Assistant Commissioner [CT]
Periamet Assessment Circle
No.10, Palaniappa Maaligai
Chennai - 600 006 .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records of the respondent dated 06-09-2016 in TIN No33750422211/2014-2015 disallowing an input tax claim for the month of December 2014 on the ground that Form "W"of the Tamil Nadu Value Added Tax Rules 2007 has been filed belatedly and quash the same and consequently direct the respondent to consider the claim of the petitioner taking into consideration of the claim made by the petitioner in Form I of monthly returns and pass orders.

For Petitioner : Mr. Murali Kumaran for
M/s. Mcgan Law Firm
For Respondents: Mr. S. Kanmani Annamalai,Addl.G.P.

ORDER

1. Notice in the captioned writ petition was issued on 18-01-2017, when time was granted to the respondent to file a counter affidavit. The writ petition was renotified for 02-02-2017. On that date, again time was sought on behalf of the respondent to file a counter affidavit. The record shows that the counter affidavit has not been filed till date.

2. The limited grievance of the petitioner, is that, its claim for Input Tax Credit ('ITC' in short) for the months of December 2014 and January 2015 has been disallowed only on the ground that Form W has been filed beyond 180 days of the date of the subject exports made by the petitioner.

2.1 Insofar as the monthly return for the month of December 2014 is concerned, the petitioner has claimed ITC in the sum of Rs.7,20,162/-(Rupees Seven lakhs Twenty thousand One hundred Sixty Two Only).

2.2 Likewise, qua the month of January 2015, the petitioner has claimed ITC in the sum of Rs.6,96,565/-(Rupees Six lakhs Ninety Six thousand Five hundred Sixty Five Only).

3. It is not disputed by Mr. Kanmani Annamalai, learned Additional Government Pleader that the only reason that the ITC has been disallowed by the respondent is on the ground that Form W was filed beyond the stipulated epriod of 180 days.

4. The learned counsel for the petitioner, on the other hand, relies upon the following judgments of this Court which, according to him, take a contrary view.

(i) R.K.Knits Vs. Assistant Commissioner (CT)
(2015 (84) VST 521) (Mad)
(ii) First Garment Mfg. Co. (India) Pvt. Ltd., Vs. Assistant Commissioner
(2016 (88) VST 154 (Mad))
(iii) Tvl.Mahaajay Spinners India Pvt. Ltd., V. The Commercial Tax Officer
(W.P.No.28275 of 2016 dated 30-08-2016)

5. Mr. Kanmani Annamalai, learned Additional Government Pleader says that the respondent needs to reconsider the matter in the light of the view taken by this Court in the aforementioned judgments.

6. Accordingly, the impugned orders are set aside with liberty to the respondents to reconsider the case in the light of the aforementioned judgments.

6.1 The needful will be done by the respondents within a period of two weeks from the date of receipt of a copy of this order.

7. In fine, the writ petitions are allowed as above.

7.1 Consequently, the connected miscellaneous petition shall stand closed.

7.2 However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

glp

To

The Assistant Commissioner [CT]
Periamet Assessment Circle
No.10, Palaniappa Maaligai
Chennai - 600 006.

+ 1 cc to M/s. Mcgan Law Firm, Advocate Sr.12406
+ 1 cc to M/s. Special Government Pleader (Taxes) Sr.12197

W.P.Nos.1011 and 1016 of 2017

NR(CO)
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