IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.7365 of 2017
and
W.M.P.No.8025 of 2017

M/s. Sakthi Ferro Alloys India Pvt.Ltd.
At No.18/25, 2nd Street,
Loganathan Nagar,
Choolaimedu,
Chennai - 600 094
rep. By its Managing Director ...Petitioner

Versus

Assistant Commissioner (CT)
O/o Asst.Commissioner of Commercial taxes
Vadapalani Assessment Circle,
No.1, Greams Road,
Chennai - 600 006. ..Respondent

Prayer: Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondent to pass orders on the Application dated 13.03.2017 filed under section 84 of TN VAT Act and not to take any recovery action till the disposal of the application dated 13.03.2017.

For Petitioner : Mr.S.Sathiyanarayanan

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

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent and by consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner seeks for a Mandamus directing the respondent to pass orders on the application dated 13.03.2017 filed under Section 84 of the Tamil Nadu VAT Act and not to take any recovery action till the disposal of the said application.

3. The petitioner is a registered dealer under the Tamil Nadu VAT Act. The petitioner was served with a notice dated 26.12.2016 for reversal of ITC on account of non filing of 'C' Forms. The petitioner has some reasons to explain and for condoning such non-filing. However, as an assessment order dated 30.01.2017 was passed, the petitioner filed an application dated 13.03.2017 under Section 84 of the said Act seeking for rectification along with a cheque for the admitted liability of Rs.24,32,940/-. However, the respondent, without even taking the application on file and passing an order on merits, has simply made an endorsement in the delivery ledger of the petitioner itself as if the said application under Section 84 was not considered, by making a single line endorsement. Therefore, the petitioner has approached this Court and filed the present writ petition.

4. Upon hearing the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, this Court is of the view that the respondent is not justified in rejecting the application filed by the petitioner under Section 84 of the said Act without taking it on file and passing a speaking order. Therefore, I am of the view that the respondent has to consider the said application on its own merits and in accordance with law after taking it on file and giving due opportunity to the petitioner. Accordingly, this writ petition is allowed and the respondent is directed to take and consider the application filed by the petitioner dated 13.03.2017 under section 84 of the said Act and pass orders on the same on its own merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court while allowing the writ petition and remitting the matter back to the respondent, is not expressing any view on the merits of the claim made by the petitioner, as it is for the respondent to consider and decide. Till the order is passed by the respondent in the said application, no coercive steps shall be taken by the respondent as against the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

vsi

To

The Assistant Commissioner (CT)
O/o Asst.Commissioner of Commercial taxes
Vadapalani Assessment Circle,
No.1, Greams Road,
Chennai - 600 006.

+1cc to Special Government Pleader sr.19052

+1cc to Mr.S.Sathyanarayanan,Advocate sr.18859

W.P.No.7365 of 2017

vsn(co)
ss(28/3/2017)