**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 08.02.2017**

**CORAM**

**THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER**

**W.P.No.3082 of 2017**
**And**
**W.M.P.No.3002 of 2017**

Aurrum Enterprises Pvt. Ltd
represented by its Power of Attorney
B.Dhinagaran ... Petitioner

Vs.

The Assistant Commissioner (CT)
No.46, Greenways Road,
T.Nagar Assessment Circle,
Chennai – 600 028. ... Respondent

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the files of the Respondent herein in CST 873581/2014-15 dated 04.01.2017 and quash the same and direct the Respondent herein to consider the application dated 31.01.2017.

For Petitioner : Mr.N.Inbarajan
For Respondent : Mr.K.Venkatesh
Government Advocate

**O R D E R**

1.Issue Notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.By virtue of the instant writ petition, challenge is laid to the assessment order dated 04.01.2017.

3.It is not in dispute before me, that the respondent had issued a pre-assessment notice dated 15.11.2016. Via, the said notice, the respondent had invited objections from the petitioner with regard to sales against 'C' Forms which had not been filed and ITC availed on such sales was also proposed to be reversed.

3.1.Furthermore, export sales qua, which exemption sought, was also, proposed to be assessed to tax at the rate of 14.5%.

3.2.The petitioner, as indicated above, admittedly, did not file objections, which, propelled the respondent to pass the impugned assessment order dated 04.01.2017.

4.The petitioner, thereafter, filed an application dated 31.01.2017, wherein, inter alia, it sought to bring to the notice of the respondent that necessary declarations in Form 'C' were made available, albeit, only on 12.01.2017 and, since, they were available, they could be presented before him. In the application, it was further averred that the respondent could even at this stage, accept the declarations made in Form C. In this regard, reference was made to Rule 12(7) of the Central Sales Tax (Registration and Turnover) Rules, 1957.

5.Insofar as the Export Sales were concerned, the petitioner submitted that the necessary documents which included Invoices and Bills of Lading etc., were available.

6.I am informed by the learned counsel for the petitioner that a common order has been passed on the petitioner's representation dated 31.01.2017.

7.Learned counsel for the petitioner says that the petitioner apprehends attachment of his Bank accounts.

8.Even though the respondent has not dealt with the petitioner's representation dated 31.01.2017, Mr.Venkatesh, who appears for the respondent, as indicated above, says that a direction could be issued to the respondent to deal with the petitioner's representation dated 31.01.2017.

9.Accordingly, the writ petition is disposed of, with a direction to the respondent to deal with the petitioner's representation dated 31.01.2017. Before passing an order qua, the said representation, a personal hearing will be afforded to the petitioner.

9.1. The petitioner will be given notice qua the hearing so fixed. The petitioner will, present, before the respondent all declarations in original, as also, documents available with him regarding Export Sales.

9.2. The respondent shall pass a speaking order in respect of the aforementioned representation, after deliberating upon the material so produced by the petitioner before him. A copy of the order will be supplied to the petitioner.

9.3. Pending disposal of the representation, no coercive measures will be taken against the petitioner.

9.4. Needless to say the aforementioned exercise will be completed at the earliest, though, not later than eight (8) weeks from the date of receipt of a copy of the order.

10.The writ petition is disposed of, in the aforementioned terms. Consequently, the connected pending application is also closed. However, there shall be no order as to costs.

08.02.2017

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Index: Yes/ No
Internet: Yes/ No

To

The Assistant Commissioner (CT)
No.46, Greenways Road,
T.Nagar Assessment Circle,
Chennai – 600 028.

**RAJIV SHAKDHER,J.**

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