IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24431 of 2017

Tvl. Polymech Wires India Private Limited,
Rep. by its Managing Director, M.Selvaraj,
331/1A, Sengandiputhur North, Vedaptti (PO),
Kaniyur (S.O), Madathukulam (Tk),
Tiruppur District-642 203. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Udumalpet North Assessment Circle,
Udumalpet. ... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent herein to issue 4 Form C Declarations to the petitioner herein pursuant to their representations and remainder dated 18.08.2017, for being given to their seller at Kerala State.

For Petitioner : Mr.A.Chandra Sekaran

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.A.Chandra Sekaran, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice on behalf of the respondent. With the consent on either side the writ petition is taken up for final disposal.

2.The petitioner seeks for a direction upon the respondent to issue four Form C Declarations to the petitioner by considering their representations and reminder dated 18.08.2017. The petitioner's case is that during the assessment years 2011-12 and 2012-13, they have purchased raw material viz., MS Wires, from one M/s.Devi Metals, Alappuzha, Kerala State and in order to avail concessional rate of tax prescribed under Section 8(1) of the Central Sales Tax Act, 1956 (in short “CST Act”), the petitioner issued four 'C' Form Declarations to the said

M/s.Devi Metals. On production of the original C Forms before the concerned Assessing Officer, the selling dealer in Kerala State is entitled to claim concessional rate of tax as prescribed under Section 8(1) of the CST Act. It appears that the selling dealer M/s.Devi Metals, Alappuzha, Kerala State, had lost the four 'C' Declaration Forms and therefore, they lodged a Police complaint before Alappuzha North Circle Police Station on 18.11.2014, mentioning the four C Form Declaration numbers, which were lost while traveling from Kalavoor to Alappuzha, which was taken by the Accountant of the firm during January 2013. Though the complaint had been lodged, till date it appears that the lost Forms have not been recovered by the police. Apart from that, the proprietrix of the selling dealer M/s.Devi Metals, submitted an affidavit dated 03.11.2014, duly attested by an Advocate and Notary Public, stating that the four 'C' Forms are irrecoverably lost and she has not used the same for any purpose and the affidavit was sworn to before the Sales Tax Department, Tamil Nadu for obtaining duplicate 'C' Forms. With the copy of the police complaint and the affidavit given by the selling dealer as well as enclosing the petitioner's counter foil copy of the 'C' Declaration Forms, the petitioner has requested the respondent to issue duplicate 'C' Forms. The petitioner has also remitted the necessary charges. However, the application has not been considered in spite of reminder made on 18.08.2017.

3.The procedure for issuance of duplicate Declaration Forms is in terms of Rule 12 of the CST (Registration and Turnover) Rules 1957. Sub-Rule 3 of Rule 12 deals with the manner in which a duplicate Declaration Form should be issued. This Rule provides for an endorsement to be made in red ink, declaring that the form is a duplicate Declaration Form, which was signed on the particular date and issued to the registered dealer in the State of Tamil Nadu. Sub-Rule 2 of Rule 12, provides for the procedure which the selling dealer has to comply with, while utilizing the duplicate 'C' Form Declaration, wherein he has to file an indemnity bond to his Assessing Officer in Kerala State, affirming that the declaration forms were lost, the loss occurred while it was in their custody or while it was in transit to the notified authority of their State and if such indemnity is given, then the selling dealer in the Kerala State will be entitled to avail concessional rate of tax on production of the duplicate Form C Declaration issued by the petitioner's Assessing Officer viz., the respondent. Thus, when the statute provides for a remedy, the respondent is bound to consider the request made by the petitioner and the same cannot be kept pending indefinitely.

4.In the light of the above, there will be a direction to the respondent to consider the petitioner's representation dated 18.08.2017, peruse the entire records and if there is any clarification required, afford an opportunity of personal hearing to the petitioner. If there is no other legal impediment, the respondent shall issue the necessary duplicate Form C Declarations with appropriate endorsement as contemplated under Rule 12(3). The above direction shall be complied with by the respondent within a period of three weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

abr

To

The Assistant Commissioner (CT),
Udumalpet North Assessment Circle,
Udumalpet.

+ 1 cc to Mr.A.Chandra Sekaran, Advocate,SR.
+ 1 cc to The Govt.Pleader, SR.66377

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GMI(CO)
NR 09/10/2017