IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2017

CORAM

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.25023 of 2017

and

W.M.P.No.26410 of 2007

M/s.Malpani Alloy and Extrusions Pvt. Ltd.,
rep. by its Managing Director
Ashok Kumar Malpani
Survey No.369 & 370,
Eguvarpalayam-II,
Gummidipoondi 602 201. ... Petitioner

Vs

The Commercial Tax Officer,
Gummidipoondi Assessment Circle,
No.38, II Floor, G.N.T.Road,
Gummidipoondi 601 201. ... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for records on the file of the respondent in CST.83551/2013-14 dated 31.07.2017 and quash the same and to direct the respondent to return the defective C and F declaration Forms and provide opportunity to rectify the same and grant concessional rate of tax or exemption.

For Petitioner :: Mr.T.Pramodkumar Chopda

For Respondents :: Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.T.Pramodkumar Chopda, learned Counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent. With the consent of the learned counsel on either side, the writ petition itself is taken up for disposal.

2.The petitioner who is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 [hereinafter called as "the TNVAT Act"] and the Central Sales Tax Act 1956, [hereinafter called as "the CST Act"] is aggrieved by the impugned assessment order under the CST Act for the year 2013-14. The matter pertains to the correctness and validity of Form 'C' and 'F' declaration.

3.According to the petitioner there are certain errors in the statutory Forms, submitted by them, as, instead of giving the original, the counterfoil has been given and some forms are defective. It is submitted that if the respondent returns the defective forms the petitioner would rectify the defects and represent the Forms. So far as the 'C' forms is concerned, the petitioner, instead of producing the originals has produced counter foils.

4.The counsel, on instructions submitted that the dealer in Karnataka State has given the original and the petitioner would be able to produce the same before the Assessing Officer if an opportunity is given to the petitioner.

5.The learned Government Advocate on instructions states that the Assessing Officer is ready and willing to return the defective forms and the counter foil forms which the petitioner had produced for rectification and proper representation.

6.In the light of the above factual position, the writ petition is allowed, the impugned order is setaside and the respondent is directed to return all the defective forms and inadmissible forms to the petitioner and the petitioner is granted three weeks time to rectify and re-present the Forms, after which the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

maya/sai

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer,
Gummidipoondi Assessment Circle,
No.38, II Floor, G.N.T.Road,
Gummidipoondi 601 201.

+1cc to Special Government Pleader Sr.71781
+1cc to M/S Pramod kumar chopra, Advocate Sr.71739

W.P.No.25023 of 2017

MG(CO)
RVR 14/11/2017