IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2017

Coram:

The Hon'ble Mr. Justice T.S. Sivagnanam

W.P.No.27165 of 2017

M/s. Supreme Coaters & Fabricators
represented by its Proprietor,
Mr. P. Boopathy,
Puducherry - 605 110.

...Petitioner

Versus

The Commercial Tax Officer - IAC,
Commercial Tax Department,
100 Feet Road, Ellaipillaichavady,
Puducherry - 605 005.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent herein to unlock the facility to issue Online C Form Declaration in TIN No. 34140008340.

For Petitioner : Mr. M.N. Bharathi

For Respondent : Mr. J. Kumaran,
Government Advocate (Pudhucherry)

O R D E R

Heard Mr. M. N. Bharathi, the learned counsel appearing for the petitioner and Mr. J. Kumaran, the learned Government Advocate (Pudhucherry) accepting notice on behalf of the respondent.

2. In this writ petition, the petitioner seeks for the issuance of a Writ of Mandamus to unlock the facility to issue Online C Form Declaration in respect of TIN No.34140008340. The petitioner is a registered dealer as on the file of the respondent under the provisions of the Pudhucherry Value Added Tax Act, 2007(PVAT). As against the orders of assessment for the years 2007-08 and 2008-09, the petitioner filed appeals before the Appellate Assistant Commissioner (CT), Pudhucherry challenging the assessment orders dated 12.12.2014 and 22.12.2014. The Appellate Assistant Commissioner, by orders

dated 29.06.2015, dismissed the appeals.

3. Aggrieved by the same, the petitioner preferred the appeals before the Value Added Tax Appellate Tribunal in Tax Appeal Nos.2/2016 and 3/2016. Both the appeals were allowed by order dated 02.03.2016 and the orders passed by the Assessing Officer as well as the Appellate Assistant Commissioner were set aside. It appears that the Revenue preferred tax cases (revision) before the Division Bench of this Court. However, there is no interim order granted by the Division Bench and the tax cases (revision) are stated to be pending. In the meantime, since the online facility has been locked by the respondent, the petitioner is unable to generate C Form Declarations, as a result, they would say that they are put to hardship.

4. On instructions, the learned Government Advocate states that the petitioner is in arrears of a sum of Rs.43,300/- for the assessment year 2010-11 and sum of Rs.53,458/- for the assessment year 2011-12. These being the penalty payable by the petitioner for belated payment of tax. According to the learned Government Advocate, the said demands have been affirmed by the Value Added Tax Appellate Tribunal and there is a positive direction to the petitioner to remit the amounts.

5. In the light of the above factual position, there will be a direction to the petitioner to pay a sum of Rs.43,300/- (Rupees Forty Three Thousand and Three Hundred) and Rs.53,458/- (Rupees Fifty Three Thousand Four Hundred and Fifty Eight) being the penalty amounts said to be quantified for the assessment years 2010-11 and 2011-12 and on such payment being made the Online facility, which has been currently locked, shall be unlocked and the petitioner shall be permitted to generate Online C Form declarations. This direction is subject to the outcome of the tax cases (revision) filed by the Revenue against the orders passed by the Tribunal in Tax Case Nos.2 and 3 of 2016 and the remittance of Rs.43,300/- and Rs.53,458/- shall be without prejudice to the rights and contentions, if they seek to further prosecute the matter before the higher forum.

6. With the above directions, this Writ Petition stands disposed of. No costs.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

mrr

To

The Commercial Tax Officer - IAC,
Commercial Tax Department,
100 Feet Road, Ellaipillaichavady,
Puducherry - 605 005.

+ 1 cc to Government Pleader [P] sr.no.75010

+ 1 cc to Mr.S.Yaswanth sr.no.74862

W.P.No.27165 of 2017

PVS [CO]
RR 17/11/2017