IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.28175 OF 2017

M/s.First Technologies (India) Pvt. Ltd., rep.by its Senior Manager, Puducherry-9. ...Petitioner

Vs

The Commercial Tax Officer-IAC-II, Office of the Commercial Tax Officer-IAC, III Floor, Commercial Taxes Complex, 100 Feet Road, Ellapillaichavadi, Puducherry-3. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to permit the petitioner to generate the C declaration forms through on line by unlocking the facility in TIN/CST No.34910008547.

For Petitioner : Mr.P.V.Sudakar
For Respondent : Mr.J.Kumaran, GA (P)

ORDER

Mr.J.Kumaran, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. In this writ petition, the petitioner seeks a direction to the respondent to permit them to generate the C declaration forms through on line by unlocking the facility in respect of the petitioner's registration under the Puducherry Value Added Tax Act, 2007 and the Central Sales Tax Act, 1956.

3. The respondent assessed the petitioner to tax for the years 2008-09 and 2009-10, under both the aforesaid Enactments by assessment orders dated 16.9.2016 and 05.12.2016

respectively. The petitioner preferred two appeals against the four assessment orders before the First Appellate Authority in A.P.Nos.62/PVAT/2016-17/AAC and 68/PVAT/2016-17/AAC. Those appeals were disposed of by orders dated 16.12.2016 and 30.1.2017 respectively. Aggrieved by the orders of the First Appellate Authority, the petitioner preferred two appeals before the Pudhucherry Value Added Tax Appellate Tribunal.

4. As against the orders passed by the First Appellate Authority, in respect of the assessment orders for the year 2008-09, the appeal has been presented with a delay of 45 days and the petitioner filed an application for condonation of delay. In so far as the appeal against the assessment orders for the year 2009-10, it appears that the appeal has been entertained and numbered as T.A.No.13 of 2017, in which, an application for stay is also pending. In the meantime, the respondent locked the on line facility thereby preventing the petitioner from generating the C declaration forms.

5. The learned counsel for the petitioner would submit that the petitioner paid 12% of the disputed tax in respect of all the four assessments while filing the first appeals and further paid another 25% of the disputed tax at the time of filing the second appeals.

6. Thus, the petitioner is stated to have paid 37.5% of the disputed tax in respect of all the assessment orders. Since there is no Presiding Officer for the Tribunal, it appears that the appeals were not taken up for disposal and that the same are pending.

7. Considering the above facts, this Court is of the view that if the interests of the Revenue are secured pending the appeals before the Tribunal, the petitioner can be permitted to generate the C declaration forms, more so when the petitioner paid 37.5% of the disputed tax. However, this Court is also of the view that some more amount of disputed tax can be directed to be paid by the petitioner to better secure the interests of the Revenue.

8. Hence, the writ petition is disposed of with a direction to the petitioner to pay further 10% of the disputed tax for each of the assessment years within a period of three weeks from the date of receipt of a copy of this order. On such payment, the respondent is directed to unlock the on line facility so as

to enable the petitioner to generate the C declaration forms. It is needless to add that the benefit of this order will not enure to the petitioner if the petitioner fails to comply with the condition of payment of another 10% of the disputed tax for each of the assessment years within the time stipulated. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer-IAC-II,
Office of the Commercial Tax Officer-IAC,
III Floor, Commercial Taxes Complex,
100 Feet Road, Ellapillaichavadi,
Puducherry-3.

+1cc to M/s.P.V.Sudakar, Advocate in sr.78089

WP.No.28175 of 2017

CP(CO)
NR/06/11/17