IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.18708 of 2017

Vairava Textiles (P) Ltd.,
Rep by its Director, R.Muthu ... Petitioner

Vs.

1.The Assistant Commissioner (CT),
Udumalpet (North), Udumalpet.

2.The Appellate Assistant
Commissioner (CT) FAC,
Pollachi.

3.The Secretary, Sales Tax
Appellate Tribunal,
Additional Bench,
CT Buildings,
Dr.Balasundram Road,
Coimbatore. ... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus, directing the first respondent herein to refund the amount of Rs.24,13,216/- as per their last request dated 18.04.2017, with interest.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.K.Venkatesh,
Government Advocate
(for RR1-2)

O R D E R

Heard Mr.N.Inbarajan, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the first and second respondents.

2. With the consent on either side, the writ petition is taken up for disposal.

3. The petitioner is a registered dealer on the file of the respondent under the provisions of Tamil Nadu Value Added Tax Act (TNVAT Act), 2006. For the assessment

years 2000-01 to 2003-04, the petitioner filed the appeals to the second respondent, which were allowed and the assessments were modified. The petitioner made request to the Assessing Officer to give effect to the orders of the Appellate Authority as provided under Section 39-A of the Tamil Nadu General Sales Tax Rules.

4. In the mean time, the appeal filed by the Revenue before the third respondent-Tribunal was also rejected confirming the order passed by the second respondent - the Appellate Authority for the years 2002-03. In respect of other assessments for the years 2000-01, 2001-02 and 2003-04, no appeal was preferred. Therefore, the petitioner requested the first respondent to effect the refund of the excess tax paid. In spite of several representations and followed by a legal notice, no action has been taken by the first respondent to refund the excess tax. Therefore, the petitioner is before this Court.

5. Mr.K.Venkatesh, learned Government Advocate, accepting notice on behalf of the first and second respondents, submitted that the first respondent is directed to consider the petitioner's representation dated 18.04.2017. It is a comprehensive representation of all the four assessment years.

6. In the light of the above, the writ petition is disposed of with a direction to the first respondent to consider the representation of the petitioner dated 18.4.2017 and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of copy of this order. It is made clear that if the petitioner is entitled for refund, then the same should not be delayed and alternatively, the first respondent is entitled to adjust the excess of tax paid by the petitioner with regard to the demands for the current assessment years. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

gsk
To
1.The Assistant Commissioner (CT),
Udumalpet (North),
Udumalpet.

2.The Appellate Assistant Commissioner (CT) FAC,
Pollachi.

3.The Secretary,
Sales Tax Appellate Tribunal,
Additional Bench,
CT Buildings,
Dr.Balasundram Road,
Coimbatore.

+1cc to M/s.N.Inbarajan,Advocate sr.51693

W.P.No.18708 of 2017

ss(10/8/2017)