BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No.7849 of 2017

Tvl.Pearl Granite Industries,
Represented by its Partner,
Bharat Bhandari, aged about 36 years,
S/o Hukomichand Bandari,
S.No.30/4, ABC, Sivagangai Main Road,
Poovanthi Village,
Sivagangai District- 630 611. ...Petitioner

Vs.

The Assistant Commissioner (CT),
Sivagangai Assessment Circle,
No.3, Oversaupillai Street,
Sivagangai- 630561. ...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to refund the excess tax amount of Rs.6,34,781/- paid by the petitioner for the assessment year 2013-2014 (TNVAT) together with interest @ 6% per annum from 11-01-2016 onwards till the date of refund.

For Petitioner : Mr.R.Veeramanikandan
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

This Writ petition has been filed by the petitioner, directing the respondent to refund the excess tax amount of Rs.6,34,781/- paid by the petitioner for the assessment year 2013-2014 (TNVAT) together with interest @ 6% per annum from 11-01-2016 onwards till the date of refund.

2. Heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3. The grievance of the petitioner is that the petitioner's appeal as against the Original Assessment was allowed and hence the amount, which has been paid in excess of the amount determined, as per the Original Assessment Order is lying with the

respondent. Based on the Appellate order, the Assessment Authority has also passed the revised assessment. However, the excess amount has not been refunded. In this regard, the petitioner has also submitted a representation by letter dated 16.10.2016. Even thereafter the excess amount has not been refunded and hence, the petition has been filed by the petitioner.

4. The learned Counsel for the petitioner relied upon the judgment of this Court in the case of ***M/s. Greenway Tradings Vs. State of Tamilnadu, Department of Commercial Taxes and others*** in ***W.P.No.9313 of 2015***, dated 31.03.2015, in which this Court has held that the petitioner in a similar situation is entitled to refund of the amount and the respondent is directed to refund the amount.

5. Having regard to the limited scope of the prayer in the Writ Petition, this Court is inclined to issue the following direction:

"The respondent is directed to consider the representation of the petitioner, dated 16.10.2016, and to pass appropriate orders on merits and in accordance with law, in the light of order passed by the assessment authority by proceedings dated 12.10.2015 and to refund the excess amount, unless, the order of Appellate Authority is stayed or there is other legal impediment. The respondent is also directed to consider the representation for refund in terms of Rule 14(18) of TNVAT Rules. This exercise shall be done within a period of six weeks from the date of receipt of a copy of this order."

5. Accordingly, the Writ petition is allowed with the above directions. No costs.

Sd/-
Assistant Registrar(co)

/ True Copy /

Sub Assistant Registrar(C.S.)

To
The Assistant Commissioner (CT),
Sivagangai Assessment Circle,
No.3, Oversaupillai Street,
Sivagangai - 630 561.
+1 CC TO M/S.B.ROOBAN, ADVOCATE, SR NO.54045

TA/SM
MAS/RSK/SAR1:09.06.2017:2P-3C

ORDER MADE IN
W.P.(MD).No.7849 of 2017
(2/2)
26.04.2017