IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

Writ Petition No.5420 of 2018
and
W.M.P.Nos.6680 and 6681 of 2018

M/s.Jain Profiles,
Rep.by its Proprietrix
Nisha Hemal Gogri,
No.197, 1st Floor, Sydenhams Road,
Appa Rao Garden, Choolai,
Chennai - 600 112. .. Petitioner

Vs.

The Assistant Commissioner (CT),
(Now known as the Assistant Commissioner (ST)),
Purasavakkam Assessment Circle,
No.50, I Floor,(above ICICI Bank),
1st Avenue, Anna Nagar East,
Chennai - 600 102. .. Respondent

(Amended as per order of this Court dated 15.3.2018 in W.M.P.No.7171 of 2018 in W.P.No.5420 of 2018)

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in CST.1209073/2013-14, dated 20.02.2015 and quash the same as illegal, against the provisions of the Act and principles of natural justice and fair play and direct the respondent to consider and allow concessional rate of tax in respect of interstate sales covered by C Forms and refund the advance tax of Rs.2 lakhs collected on 31.12.2014 for the Assessment year 2013-14.

For Petitioner : Mr.P.Prithvi Chopda
For Respondent : Mr.M.Hariharan,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent dated 20.02.2015 and quash the same and to direct the respondent to consider and allow concessional rate of tax in respect of interstate sales covered by 'C' Forms and refund the advance tax of Rs.2 lakhs collected on 31.12.2014, for the Assessment year 2013-14.

2.The learned counsel for the petitioner submitted that the petitioner had already submitted the 'C' Forms before the respondent, but, the respondent without considering the same, has passed an order dated 20.2.2015. Further, the leaned counsel for the petitioner submitted that the advance tax paid by the petitioner on 31.12.2014, to the tune of Rs.2 lakhs was not refunded to the petitioner.

3. The learned Additional Government Pleader(Tax) takes notice for the respondent and submitted that the respondent may be directed to consider the petitioner's 'C' Forms and decide the matter afresh in accordance with law. Further, the learned Additional Government Pleader(Tax) submitted that so far as the refund of Rs.2 lakhs is concerned, paid by the petitioner, the respondent may be directed to consider the same and pass orders, within a time frame.

4. Having regard to the submissions made by the learned counsel on either side, since the respondent has passed the impugned order without considering the 'C' Forms submitted by the petitioner, the impugned order dated 20.2.2015, is liable to be set aside. Accordingly, the same is set aside and the matter is remitted back to the respondent. The respondent is directed to consider the 'C' Forms submitted by the petitioner and decide the matter afresh, after affording an opportunity of personal hearing to the petitioner, on merits and in accordance with law. So, far as the refund of Rs.2 lakhs, the respondent is directed to consider the petitioner's request and pass orders, within a period of four weeks, from the date of receipt of a copy of this order. Since the petitioner has already produced the originals before the respondent, the petitioner is directed to produce the xerox copies of 'C' Forms, which were already produced by them before the respondent, within a period of one week.

5. With these observations, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

ms

To

The Assistant Commissioner (CT),
(Now known as the Assistant Commissioner (ST)),
Purasavakkam Assessment Circle,
No.50, I Floor,(above ICICI Bank),
1st Avenue, Anna Nagar East,
Chennai - 600 102.

+1cc to Special Government Pleader, sr.21041
+1cc to Mr.T.Pramod kumar chopda, Advocate, sr.20592

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RMP(21/03/2018)