IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

CORAM

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

W.P.No.6957 of 2018 &

W.M.P.No.8609 of 2018

M/s.Carboline (India) Pvt Ltd
Rep by Authorized Signatory
Plot No.356 & 357, Sidco Industrial Estate
Ambattur
Chennai-600 058 .. Petitioner

v.

The Assistant Commissioner (CT) (FAC)
Ambattur Assessment Circle
127, Yadhaval Street, Padi
Chennai-600 050 .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for the records of the impugned order of re-assessment in CST 841893/2013-2014, dated 12.02.2018 from the files of the respondent herein and quash the same.

For Petitioner : Ms.Aparna Nandakumar

For Respondent : Mr.M.Hariharan
Additional Government Pleader (T)

ORDER

Heard Ms.Aparna Nandakumar, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader, for the respondent.

2. The petitioner is before this court for the 2nd time virtually for the same relief. Earlier, the petitioner filed W.P.No.27585 of 2017 challenging the assessment order under the provisions of Central Sales Tax Act, 1956, for the assessment year 2013-14. The challenge to the assessment order was on the ground that the petitioner has been levied higher rate of tax for non-filing of 'C' Form declarations. The court granted

four weeks time to produce the 'C' Form declarations, but, the petitioner failed to do so within the time permitted, therefore, the impugned order has been passed.

3. The learned counsel for the petitioner submitted that the supplies made to M/s.Octamec Engineering, Mumbai, during the relevant period for Rs.73129926.00, from October 2014, the said company had run into severe financial problems and the said company has been wound up by the Bombay High Court in C.P.No.548 of 2014 and the Official Liquidator, Mumbai has been appointed as Provisional Liquidator. Therefore, it is submitted that the petitioner has a genuine difficulty in securing 'C' Form declarations from the said M/s.Octamec Engineering, Mumbai and in spite of all these difficulties, earnest effort is taken by the petitioner and Arbitration Proceedings have also commenced.

4. The respondent going by the direction issued by this court in the earlier writ petition, rejected the claim made by the petitioner and passed the impugned assessment order. The respondent cannot be faulted for having passed the impugned order as he has obeyed the orders passed by this court in the earlier writ petition dated 16.11.2017.

5. The learned counsel for the petitioner pleads that pursuant to interim order granted in this writ petition the petitioner has paid 10% of the demand and prays for some more time to produce the 'C' Form declarations.

6. Considering the factual situation, which has been pleaded, this court is inclined to grant one more opportunity to the petitioner. This is so, because the Commissioner of Commercial Tax has issued a Circular stating that declarations in 'C' Form can be produced at any time and there is no strict time lines prescribed for producing the same and as and when the declaration forms are produced, the assessment can be reopened. However, this court is inclined to impose further condition on the petitioner to be entitled for a breathing period.

7. Accordingly, the writ petition stands disposed of by directing the petitioner to pay further 15% of the disputed tax within eight weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, the respondent shall keep the impugned order in abeyance till

17.08.2018 with which time the 'C' form declarations have to be produced by the petitioner. In the event the petitioner fails to comply with the condition imposed in this order, the benefit of this order will not enure to the petitioner. No costs. Consequently,connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

Rj
To

The Assistant Commissioner (CT) (FAC)
Ambattur Assessment Circle
127, Yadhaval Street, Padi
Chennai-600 050

+1cc to Mr.APARNA NANDAKUMAR, Advocate, S.R.No. 29396
+1cc to the Government Pleader, S.R.No.29235

W.P.No.6957 of 2018 &
W.M.P.No.8609 of 2018

TR(25/04/2018)