IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

C O R A M

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

W,P.No.14429 of 2018 &
WMP.No.17044 of 2018

M/s.Alkraft Thermo Technologies Pvt.Ltd.,
Rep by its Chief Financial Officer
35-A & B/1, Ambattur Industrial Estate,
Chennai-600 058. .. Petitioner

vs

The Assistant Commissioner (ST),
Pattaravakkam Assessment Circle,
No.127, 2nd Floor, Yadhaval Street,
Padi,Chennai-600 050. .. Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified mandamus to call for the records of the impugned order dated 07.02.2018 bearing reference CST/651756/2007-08 and to quash the same and further direct the respondent to pass a revised assessment order on purchase returns and free samples for the assessment year CST 2007-08 based on the representations dated 24.01.2018 and 24.03.2018 of the petitioner by affording an opportunity of personal hearing.

For Petitioner : Mr.R.Anish Kumar
For Respondent : Mrs.G.Dhanamadhri,
Government Advocate (Taxes)

O R D E R

Heard Mr.R.Anish Kumar, learned counsel for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate (Taxes) accepting notice for the respondent. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a manufacturer and dealer of Aluminum Radiators, Inter Coolers and Oil Coolers and registered with the respondent Department under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as “the TNVAT Act”) and Central Sales Tax Act, 1956 (hereinafter referred to as “the CST Act”). The assessment under the CST Act

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for the year 2007-08 was completed vide order dated 07.02.2018 for total turnover of Rs.34,37,24,667/-. The turnover which was covered by C-Forms were assessed at the rate of 3% and 2%, and the turnover which was not covered by C-Forms, were assessed at the rate of 12.5% and 4% and the assessment order also demanded tax for sales without C-Forms.

3. The petitioner submitted CST sales turnover along with C-Forms and supporting documents, and on verification, a revised assessment order dated 23.08.2013 was passed. The petitioner submitted a representation requesting for further revision of assessment based on further C Forms, F forms, purchase returns and free samples followed by several reminders. However, the respondent considered the same, reduced the tax liability and ultimately, the taxable turnover was determined vide revised assessment order dated 07.02.2018, without properly considering F Forms, C Forms, purchase returns and free samples. On the same day, another revised assessment order was passed by taking into account F-Forms, but not the purchase returns and free samples, which is impugned in this writ petition.

4. The petitioner challenged the assessment order of similar nature relating to the Assessment Year 2014-15 by filing a writ petition in W.P.No.32843 of 2016. The said writ petition was allowed by order dated 20.09.2016 by setting aside the order insofar as it has rejected the issue relating to Sales Return and return of stock transferred goods and directed to redo the assessment. In the aforesaid order, the Court observed as follows:

> "6. ... However, the Assessing Authority, being a statutory authority, would also have the power to redo the assessment, more so, when the Court directed to redo the matter. Thus, if the petitioner has made a statement with regard to the sales return and cash discount and produced the necessary documents, it is always open to the assessing officer to take into consideration those documents and take a decision in the matter. Therefore, the respondent need not restrict himself only with regard to the C-Forms and F-Forms and if the petitioner is legally entitled for any other relief then that may be considered.
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> 7. Accordingly, the Writ Petition in WP.No.32843/2016 is allowed and the impugned order, insofar as it has rejected the petitioner's case relating to Sales Return, Cash Discount and return of stock transferred goods are concerned, are set aside and the respondent is directed to redo the assessment on these heads afresh, after affording an opportunity of personal hearing to the petitioner. No costs."

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5. In the light of the above order, this writ petition is allowed, directing the respondent to redo the assessment on the heads of purchase returns and free samples based on the representations of the petitioner dated 24.01.2018 and 24.03.2018 for the assessment year CST 2007-08, after affording an opportunity of personal hearing. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (ST)
Pattaravakkam Assessment Circle
No.127, 2nd Floor, Yadhaval Street
Padi, Chennai-600 050.

+1cc to Mr.R.Anish Kumar, Advocate, sr.37643
+1cc to Special Government Pleader, sr.37997

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GSP(22/06/2018)

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