IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.18945 of 2018

M/s.Tarajyot Polymers Limited,
Rep., by Suresh Kumar Ramsisaria,
Director,
68, Bharathidasan Street,
Pondicherry-3. ... Petitioner

-vs-

The Assistant Commissioner (CT),
Esplanade Assessment Circle,
(Earlier the Commercial Tax Officer,
Harbour V Assessment Circle)
116, Angappa Naicken Street,
Chennai-1. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondent to grant refund of tax with interest as requested as per letters dated 9.2.15, 26.3.18 and 12.4.18 and as per the principles stated by the Honourable Court in 31 VST 312 (Medi Herb Vs. Commercial tax officer, Cuddalore and others)

For Petitioner : Mr.V.Srikanth

For Respondent : Mrs.G.Dhana Madhri,
Government Advocate (Taxes)

O R D E R

Heard Mr.V.Srikanth, learned counsel for the petitioner and Mrs.G.Dhana Madhri, learned Government Advocate (Taxes) accepting notice on behalf of the respondent.

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

3.The petitioner seeks for issuance of a Writ of Mandamus to direct the respondent to grant refund of tax with interest as requested by the petitioner vide representations dated 09.02.2015, 26.03.2018 and 12.04.2018.

4.The learned counsel appearing for the petitioner submitted that in terms of Section 24(4) of the Tamil Nadu General Sales Tax Act, 1959 (hereinafter referred to as "the TNGST Act"), the petitioner is entitled for payment of interest.

5.The petitioner has challenged the assessment order dated 13.09.2010, by filing an appeal before the Appellate Deputy Commissioner (CT)-I, Chennai in A.P.No.36 of 2010. The said appeal was dismissed by order dated 19.08.2013. Aggrieved by the said order of the Appellate Deputy Commissioner (CT), the petitioner preferred appeal before the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Chennai in T.A.No.13 of 2014. The Tribunal, by order dated 15.12.2014, allowed the appeal filed by the petitioner.

6.It is the submission of the learned counsel for the petitioner that the order passed by the Tribunal dated 15.12.2014, has become final, as the Revenue has not preferred any tax case revision before this Court.

7.The legal position, as to whether interest is payable in such circumstances, is no longer res integra and has been decided by this Court in the case of Medi Herb Vs. Commercial Tax Officer, Cuddalore and Others reported in (2010) 31 VST 312 (Madras). In the said decision, the Court directed the Assessing Officer to pay interest to the said dealer at 12% per annum. The petitioner has submitted representations dated 09.02.2015, 26.03.2018 and 12.04.2018 and all of the representations have been acknowledged by the respondent. Yet the respondent has till date not refunded the tax, nor paid interest thereon.

8.Section 24(4) of the TNGST Act mandates payment of interest, as in the instant case, there is no factual dispute that the amount refundable is more than Rs.100/- and the time limit of ninety days prescribed under the said provision has already expired.

9.In the light of the above, this writ petition is allowed and the respondent is directed to take note of the representations given by the petitioner and refund the tax with admissible interest in terms of Section 24(4) of the TNGST Act within a period of eight weeks' from the date of receipt of a copy of this order. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

abr

To

The Assistant Commissioner (CT),
Esplanade Assessment Circle,
(Earlier the Commercial Tax Officer,
Harbour V Assessment Circle)
116, Angappa Naicken Street,
Chennai-1.

+1cc to Mr.C.Venkataraman, Advocate Sr.50573
+1cc to the Special Government Pleader Sr.50526

W.P.No.18945 of 2018

srg 11/08/2018