IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.18946 of 2018

KEYCER Agro Chemicals Ltd.,
Rep., by its Managing Director,
K.Chandrasekaran,
No.3/504, Kariya Perumal Koil Road,
Nethimedu, Salem-636 002. ... Petitioner

-vs-

Assistant Commissioner (ST),
Annadhanapatti Assessment Circle,
Commercial Taxes Building,
Pitcharts Road, Salem-636 007. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondent to dispose off the representations dated 04.04.2005 followed by 25.04.2013 and 18.06.2018 regarding the document submitted for claim of exemption on consignment sales as expeditiously as possible as the matter pertains to the assessment year CST 2001-02.

For Petitioner : Mr.N.Murali
For Respondent : Mrs.G.Dhana Madhri,
Government Advocate (Taxes)

O R D E R

Heard Mr.N.Murali, 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 final disposal.

3.The assessment, for the year 2001-02 under the Central Sales Tax Act, 1956, was completed by the Assessing Officer vide order dated 10.02.2004, and the total and taxable turnover was determined and the tax payable by the petitioner was computed. Subsequently, the petitioner came in possession of documents to establish that there were consignment sales. Accordingly, he submitted a representation on 04.04.2005 with F-Forms along with related documents such as invoices, consignment notes, sale patti, statement of the details of the consignment stocks, F-Forms - 11 numbers, copy of the assessment order issued by the respondent, Form 26 (1 to 16) and copy of the assessment order obtained from the CTO, Kerala. Though the said representation was received by the respondent, the same was not taken into consideration, but a notice for recovery of the tax was issued during February 2013. Thereafter, the petitioner has submitted another representation dated 25.04.2013 reiterating the documents, which were furnished by them vide letter dated 04.04.2005 and also furnished one more set of documents each included trading account, account copies submitted to Pondicherry Commercial Taxes Department, etc. This representation was acknowledged by the respondent on 25.04.2013 by making an endorsement in the letter delivery book. Thereafter, the petitioner has submitted another representation on 18.06.2018, since once again there was a demand notice dated 24.05.2018. All the representations given by the petitioner have not been considered, though the respondent has received the same.

4.The respondent should be aware of the Circular Nos.59758/1999 and 41367/2000 dated 01.02.2000 and 10.07.2000 respectively, issued by the Commissioner of Commercial Taxes wherein, directions have been given to the Assessing Officer to accept declaration Forms, as there may be delay in obtaining records especially from the Commercial Taxes Department of other States. However, it goes without saying that the bonafides or correctness and validity of the documents have to be scrutinized by the Assessing Officer before granting relief. The inaction on the part of the respondent to even consider the representations and keep them pending from the year 2013 onwards is not appreciable.

5.In the result, this writ petition is disposed of by directing the respondent to consider the petitioner's representation dated 04.04.2005 followed by representations dated 25.04.2013 and 18.06.2018, afford an opportunity of personal hearing to the petitioner and pass a reasoned order on merits and in accordance with law. At the time of personal hearing, the petitioner should produce the original files. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

abr

To

Assistant Commissioner (ST),
Annadhanapatti Assessment Circle,
Commercial Taxes Building,
Pitcharts Road, Salem-636 007.

+ 1 cc to Special Government Pleader SR.50525
+ 1 cc to M/s. N. Murali, Advocate SR.50529

W.P.No.18946 of 2018

KAN(CO)
EU(21/08/2018)