In the High Court of Judicature at Madras

Dated : 02.8.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.19818 to 19821 of 2018

M/s.Fashion Leather Apparels Studio
(P) Ltd., rep.by its Director Pakirsa
Zaid Ahmed ...Petitioner

Vs

The Assistant Commissioner (ST),
Nandambakkam Assessment Circle,
17, II Street, Loganathan Nagar,
Choolaimedu, Chennai-94. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus

(i) to call for the records of the respondent in his proceedings made in TIN/33710847287/2016-17 dated 18.7.2018, quash the same as illegal and direct the respondent to accept Form W filed manually and to issue refund voucher for Rs.11,79,329/- as claimed in Form W for the months of April 2016 to August 2016 (WP.No. 19818 of 2018);

(ii) to call for the records of the respondent in his proceedings in TIN/33710847287/2016-17 dated 18.7.2018, quash the same as illegal and direct the respondent to accept the Form W filed manually and to issue refund voucher for Rs.15,00,515/- as claimed in Form W for the months of September 2016 to December 2016 (WP.No.19819 of 2018);

(iii) to call for the records of the respondent in his proceedings in TIN/33710847287/2016-17 dated 18.7.2018, quash the same as illegal and direct the respondent to accept the Form W filed manually and to issue refund voucher for Rs.8,31,772/- as claimed in Form W for the months of January 2017 to March 2017 (WP.No.19820 of 2018); and

(iv)to call for the records of the respondent in his proceedings in TIN/33710847287/2017-18 dated 18.7.2018, quash the same as illegal and direct the respondent to accept the Form

W filed manually and to issue refund voucher for Rs.7,34,608/- as claimed in Form W for the months of April 2017 to June 2017 (WP.No.19821 of 2018).

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956, has filed these writ petitions challenging the orders passed by the respondent dated 18.7.2018 rejecting the manual Form W returns filed by the petitioner by stating that the refund claim cannot be processed.

3. The period, for which, the manual forms have been filed, is from April 2016 to June 2017.

4. It is the case of the petitioner that prior to April 2016, they were filing Form W returns, which were accepted and the refund claimed by the petitioner was granted.

5. Though the petitioner does not dispute the fact that there is an amendment to Section 18(1) said Act read with Rule 11(2) of the Tamil Nadu Value Added Tax Rules, 2007, which provision mandates for filing of electronic Form W, the petitioner would state that they were not aware of the computer program and therefore, they filed the manual Form W as was done by them prior to April 2016, which were accepted by the office of the respondent and acknowledgments have been granted and therefore, requested the respondent to accept the manual Form W.

6. Though the respondent is right in contending that the Statute mandates filing of electronic Form W, considering the peculiar facts and circumstances of the present case, as the dispute has arisen only for the period from April 2016 to June 2017, this Court is inclined to grant one opportunity to the petitioner without the same being treated as a precedent.

7. For the above reasons, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the respondent to accept the manual Form W returns for the

period from April 2016 to June 2017, examine the same and if found to be correct, issue appropriate refund vouchers to the petitioner within a period of four weeks from the date of receipt of a copy of this order. One more reason, which prompts this Court to give such a direction is the conduct of the petitioner in filing the electronic Form W after June 2017. Therefore, the bona fides of the petitioner cannot be doubted. Therefore, this discretionary remedy is granted, which, as observed earlier, shall not be treated as a precedent. No costs.

Sd/-
Assistant Registrar (CS-W)

// True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST),
Nandambakkam Assessment Circle, 17,
II Street, Loganathan Nagar, Choolaimedu, Chennai-94.

+1cc to Mr.S.RAMANATHAN, Advocate SR.No.52612
+1cc to Special Government Pleader SR.No.52986

WP.Nos.19818 to 19821 of 2018

GP(CO)
SMI/20.08.2018