IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.37403 of 2007
and M.P.No.1 of 2007

M/s.D.L.Miller and Co., Rep. by its
Authorised Representative, B.Rajkumar,
No.147, Swami Naicken Street,
Chennai-600 002. ... Petitioner

vs.

The Deputy Commercial Tax Officer,
Chintadripet Assessment Circle,
62, Cathedral Road,
Chennai-600 087. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the proceedings of the respondent in TNGST/0582156/05-06 dated 25.04.2007 and to quash the same as the same is against law.

For Petitioner : Mr.A.R.Jeyasanker

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

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ORDER

Heard Mr.A.R.Jeyasanker, learned counsel for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate (Taxes) for the respondent.

2. The petitioner, who is a registered dealer on the file of the respondent both under the provisions of the Tamil Nadu General Sales Tax Act, 1959 and Central Sales Tax Act, 1956 has challenged the revision of assessment for the assessment year 2005-06 dated 25.04.2007.

3. The learned counsel for the petitioner submitted that the

revision of assessment is unsustainable, in the light of the order passed by the Authority for Clarification and Advance Ruling dated 23.10.2014 in ACAAR No.15/2012-13 and ACAAR No.30/2013-14.

4. On going through the product for which clarification is sought for I prima facie find that the product dealt with by the petitioner is also identical viz., "Poly Urethane Foam". Therefore, the clarification would in all probabilities be applicable to the case of the petitioner. Thus, the respondent should take into consideration of the clarification and redo the assessment in accordance with law.

5. For the above reasons, this writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, during which the clarification in ACAAR No.15/2012-13 and ACAAR No.30/2013-14 dated 23.10.2014 shall be taken note of and the assessment should be redone in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

abr

To

The Deputy Commercial Tax Officer,
Chintadripet Assessment Circle,
62, Cathedral Road,
Chennai-600 087.

+1cc to Mr.P.Rajavelu, Advocate, S.R.No.37307
+1cc to the Special Government Pleader (T), S.R.No.37993

W.P.No.37403 of 2007

CS/26/06/18