IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.32300 of 2018
and
W.M.P.No.37540 of 2018

Tvl.Ion Exchange India Ltd.,
Represented by its authorized signatory
No.105, Sipcot Phase-I,
Hosur-635 126. ...Petitioner

vs.

The Assistant Commissioner (ST)
Hosur (North)
Hosur - 635 109. ...Respondent

PRAYER : Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Respondent's assessment order dated 22.10.2018 in CST No.447554/2017-2018 and quash the same and further direct the respondent to accept the statutory forms offered by the petitioner vide representation dated 14.11.2016.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mrs.G.Dhana Madhri
Government Advocate

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the order of assessment dated 22.10.2018 passed in respect of the assessment year 2017-2018. The Assessing Officer has imposed tax on the

Assessee at the rate of 14.5% on the total turn over, only on the reason that they have not filed the C-Form declaration till the date of completion of the assessment.

3. The grievance of the petitioner before this Court is that since the turn over is huge, they were not in a position to collect all the C-Forms and produce the same before the Assessing Officer within the time stipulated in the notice of proposal and therefore, the Assessing Officer ought to have been given sufficient time for producing such C-Forms. It is further stated that in fact the petitioner has produced a set of C-Forms, representing the turn over of Rs.6,05,30,832/- on 14.11.2018 and they are in the process of collecting the balance C-Forms from the other end dealers. Therefore, the learned counsel submitted that the petitioner may be given sufficient time for collecting the other C-Forms and producing the same before the Assessing Officer, so that he can revise the order as requested in the petitioner's letter dated 14.11.2018. He further pointed out that this Court has already taken a view in several cases that the belated filing of C-Forms cannot be the reason for rejecting the benefit derived out of such C-Forms.

4. The learned Government Advocate submitted that since the Assessee has failed to furnish the reply along with C-Form declaration in pursuant to the notice of proposal, the petitioner is not entitled to make any complaint as if they are not given an opportunity.

5. Perusal of the facts and circumstances would show that the petitioner claims to have made inter-state sales for turn over of Rs.10,24,81,232/- against C-Forms for the assessment year 2017-2018 and the notice of proposal was issued on 18.05.2018. As it is seen that the petitioner has already collected and produced C-Forms towards turn over of Rs.6,05,30,832/- and as it is further stated that the petitioner is in the process of getting balance C-Forms, this Court is of the view that the petitioner may be given an opportunity to produce all the C-Forms before the Assessing Officer so as to enable him to consider those forms and pass fresh orders of assessment. Such course of action can be done at the instance of the petitioner by filing a petition under Section 84 of the Tamil Nadu Value Added Tax Act, 2006. Accordingly, the petitioner is permitted to file the petition under Section 84 of the TNVAT Act, 2006, along with necessary C-Forms and if such petition is filed, the same shall be considered and appropriate orders shall be passed, by taking into consideration of those C-Forms. The petitioner is given four weeks time for collecting the balance C-Forms and submit the same before the respondent along with the petition to be filed under Section 84 of the TNVAT Act, 2006.

With the above observation, this writ petition is disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

mk

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST)
Hosur (North)
Hosur - 635 109.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.84277
+1cc to the Special Government Pleader, S.R.No.84694.

W.P.No.32300/2018

MR(CO)
KAK(04/01/2019)