



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 28.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3645 of 2018

and

WMP(MD)No.3766 of 2018

M/s.Crossworld Engineers,
Rep.by its Proprietrix
Mrs.Amirthalingammal,
2B/8, Livinjipuram First Street,
Tuticorin - 628 008.

... Petitioner

Vs.

The Commissioner of
Central Excise,
Central Revenue Building,
NGO 'A' Colony,
Tirunelveli - 627 007.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondent herein to Adjudicate and to pass final order/order-in-original pursuant to the show cause notice No.08/COMMR/ST/2013, dated 18.10.2013 (C.No.V/38/15/68/2013)-Adjn., within a reasonable time as fixed by this Court.

For Petitioner : Mr.A.K.Jayaraj

For Respondent : Mr.Aravindan

ORDER

Heard the learned counsel on either side.

2.The petitioner was served with show cause notice dated 18.10.2013. The petitioner filed this writ petition for directing the respondent to adjudicate and to pass final orders pursuant to the said show cause notice. Notice was ordered in this writ petition.

3.When the matter was taken up for disposal, the learned ~~senior counsel~~ appearing for the respondent informed the Court that order was passed as early as on 08.10.2015 and that the same was despatched to the address as given by the petitioner and that



the same was received on 12.10.2015. He produced a copy of the acknowledgment.

4.It is seen that the department has rightly despatched the final order and sent the same through registered post with acknowledgment (RPAD). One M.Velpandi appeared to have received the same.

5.The learned counsel appearing for the petitioner submits that the petitioner was not aware of it and the said Velpandi is not the authorised agent for the petitioner. He also drew the attention of this Court to the decision reported in 2017 (50) S.T.R 237 (S.C) (Saral Wire Craft Pvt.Ltd. vs. Commr. of Cus., C. Ex. & Service Tax). It states that the order should be served in person on the assessee concerned or his authorised person.

6.In this case, admittedly, the final order was not served on the writ petitioner. There is nothing on record to show that the person who received the said order was the authorised person of the petitioner. In these circumstances, while closing the writ petition, this Court permits the petitioner to submit a representation to the respondent seeking certified copy of the final order dated 08.10.2015. Upon receipt of the such request of the petitioner, the respondent shall furnish the certified copy of the said order immediately thereafter in the manner known to law. It is needless to say that limitation for filing appeal would run from the date of such service by the respondent on the petitioner.

7.This writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

+1cc to M/S.A.K.JEYARAJ, Advocate SR.No.52451.

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