WEB COPY



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **14.06.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

**W.P(MD)Nos.12689 to 12693 of 2018**

M/s.Kalis Sparkling Water (P) Ltd.,
Rep. by its Director,
Mr.K.P.R.Sarparajan : Petitioner in all petitions

Vs.

The Commissioner Tax Officer,
Nilakottai Assessment Circle,
Dindigul District. : Respondent in all petitions

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent to give effect to the appeal orders in Appeal Nos.& years TNVAT A.P.Nos.432/2017, 433/2017, 434/2017, 435 and 437/2017 dated 08.02.2018 for the assessment years 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2015-2016 respectively by passing revised order and to refund the amount of taxes paid in excess along with interest due thereon in accordance with law.

For Petitioner : Mr.R.D.Ganesan

For Respondent : Mr.A.Muthukaruppan,
Additional Government Pleader

******

**COMMON ORDER**

The petitioner has come forward with the present Writ Petitions seeking for issuance of a Writ of Mandamus, directing the respondent to to give effect to the appeal order in Appeal Nos.& years TNVAT A.P.Nos.432/2017, 433/2017, 434/2017, 435 and 437/2017 dated 08.02.2018 for the assessment years 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2015-2016 respectively, by passing revised order and to refund the amount of taxes paid in excess along with interest due thereon in accordance with law.

2. Mr.A.Muthu Karuppan, learned Additional Government Pleader, takes notice on behalf of the respondent.

https://hcservices.ecourts.gov.in/hcservices/

3. The petitioner is a registered dealer in soft drinks, etc.

For the assessment years 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2015-2016 (TNVAT), the respondent has determined the total and taxable turnover of Rs.3,67,47,509/-, Rs.26,06,586/-, Rs.4,10,57,690/-, Rs.7,60,17,139/- and Rs.1,23,03,096/- vide orders in TIN.Nos.33985302009/2010-2011, 33985302009/2011-2012, 33985302009/2012-2013, 33985302009/2013-2014 and 33985302009/2015-2016, dated 10.11.2017 respectively. Against the assessment orders, the petitioner has filed appeals before the Appellate Deputy Commissioner (CT)(FAC), Madurai North, in Appeal Nos.& Years TNVAT A.P.Nos.432/2017, 433/2017, 434/2017, 435 and 437/2017 respectively and the said appeals were allowed on 08.02.2018. As per Section 42(5) of the Tamil Nadu Value Added Tax Act, 2006 r/w Rule 14(18) of the Tamil Nadu Value Added Tax Rules, 2007, the orders passed in the appeals shall be given effect to by the assessing authority who shall refund without interest within a period of ninety days. Such refund shall be made, if there is no tax arrears due from the dealer to the department. Even though the appellate order was passed as early as on 08.02.2018, it was not given effect to. Aggrieved over the inaction of the respondent, the petitioner is before this Court for a direction to give effect to the order passed by the appellate authority.

4. The learned counsel for the petitioner, in support of his contention, would rely upon the orders passed by this Court in similar circumstances, dated **04.09.2014 in W.P.(MD)No.14672 of 2014 [Kwality Plastic vs. The Assistant Commissioner CT, Karur]**, dated **06.07.2017 in W.P.(MD)No.11260 of 2017 [M/s.Arasan Fertilizers (P) Ltd., vs. The Commercial Tax Officer, Ettayapuram, Tuticorin]**, and dated **18.07.2017 in W.P.(MD)No.13187 of 2017 [M/s.L.G.Shenbagarajan vs. The Assistant Commissioner (CT), Theni]**.

5. Following the orders passed by this Court as referred to above, this Court is also inclined to grant the reliefs as prayed for by the petitioner in the present Writ Petitions. Accordingly, the respondent is directed to give effect to the orders of the Appellate Deputy Commissioner (CT)(FAC), Madurai North, passed in Appeal Nos.& years TNVAT A.P.Nos.432/2017, 433/2017, 434/2017, 435 and 437/2017 dated 08.02.2018 respectively, by passing revised orders and refund the amount of taxes paid in excess along with interest due thereon to the petitioner in accordance with law, if there are no legal impediments, within a period of four weeks from the date of receipt of a copy of this order, failing which, the respondent will have to pay interest for the delayed payment.

6. These Writ Petitions are, accordingly, ordered. No costs.

Sd/-
Assistant Registrar(W)

/True Copy/

https://hcservices.ecourts.gov.in/hcservices/

Sub Assistant Registrar

To

The Commissioner Tax Officer,
Nilakottai Assessment Circle,
Dindigul District.

+ 2 ccs TO Mr.R.D.Ganesan , Advocate in SR No. 68742,68743

Arul
AE/SV MMS/SAR1/27.06.2018/3P/4C

Order made in
**W.P(MD)Nos.12689 to 12693 of 2018**
**Dated: 14.06.2018**

WEB COPY