BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.07.2018
CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)No.15542 to 15546 of 2018

M/s.Mekala MSP Raja,
Represented by its Proprietrix Mrs.Mekala,
No.281-A, Goodshed Street,
Madurai. ... Petitioner in all W.Ps

-Vs-

The Assistant Commissioner (CT),
Nethaji Road Assessment Circle,
Madurai-20. ...Respondent in all W.Ps

Common Prayer: Writ Petitions - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondent to give effect to the appeal orders in VAT.AP.250, 251, 252, 253, 254 / 2016 (TNVAT) dated 10.03.2017 for the assessment years 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, respectively, by passing revised orders 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 : Mrs.J.Padmavathi Devi
Special Government Pleader
(in all W.Ps)

COMMON ORDER

The petitioner has come forward with the present Writ Petitions seeking for issuance of a Writ of Mandamus, directing the respondent to give effect to the appeal orders in VAT.AP.250, 251, 252, 253, 254 / 2016 (TNVAT) dated 10.03.2017 for the assessment years 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, respectively, by passing revised orders and to refund the amount of taxes paid in excess along with interest due thereon in accordance with law.

2. Mrs.J.Padmavathi Devi, learned Special Government Pleader, takes notice on behalf of the respondent.

3. The petitioner is a registered dealer in Plywood and laminated sheets. For the assessment year 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012 (TNVAT), the respondent has determined the total and taxable turnover of Rs.91,748/-, Rs.15,06,192/-, Rs.16,19,431/-, Rs.2,44,878/-, Rs.4,96,762/-, respectively, vide his order in TIN.No.33534980556/2007-2008,

2008-2009, 2009-2010, 2010-2011, 2011-2012 respectively, dated 28.07.2016. Against the assessment orders, the petitioner has filed appeals before the Appellate Deputy Commissioner (CT)(FAC), Madurai (South), Madurai, in VAT.AP.250, 251, 252, 253, 254 / 2016 (TNVAT) and the said appeals were allowed on 10.03.2017. 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 order passed in the appeal 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 orders were passed as early as on 10.03.2017, 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 orders 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 Petition. Accordingly, the respondent is directed to give effect to the orders of the Appellate Deputy Commissioner (CT)(FAC), Madurai (South), Madurai, passed in VAT.AP.250, 251, 252, 253, 254 / 2016 (TNVAT), dated 10.03.2017, 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. The Writ Petitions are, accordingly, ordered. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Assistant Commissioner (CT),
Nethaji Road Assessment Circle,
Madurai-20.

+5cc to Mr.R.D.Ganesan, Advocate Sr.No.73410 to 73414
+1cc to Spl.Government Pleader Sr.No.73845

SM

VB/SKN/RSK/SAR1/27.07.2018/3P/8C

Common Order made in
W.P.(MD)No.15542 to 15546 of 2018
18.07.2017