BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD) Nos.16843 and 16844 of 2018

In W.P.(MD) No.16843 of 2018:
M/s.Sri Gnani Traders,
Represented by its Proprietor,
T.Muruganantahm. ... Petitioner

Vs.

The Commercial Tax Officer (CT) -IV,
Sivakasi, Virudhunagar District. ... Respondent

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to give effect to the appeal order in Appeal No.116/17 (TNVAT) dated 29.08.2017 for the assessment year 2013-2014 by passing revised order and to refund the amount of taxes paid in excess along with interest due thereon in accordance with law.

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PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to give effect to the appeal order in Appeal No.117/17 (TNVAT) dated 29.08.2017 for the assessment year 2014-2015 by passing revised order and to refund the amount of taxes paid in excess along with interest due thereon in accordance with law.

In both Writ Petitions:

For Petitioner : Mr.R.D.Ganesan
For Respondent : Mrs.J.Padmavathi Devi,
Special 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 give effect to the appeal order in Appeal Nos. 116/17 (TNVAT) dated 29.08.2017 for the assessment year 2013-2014 and 117/17 (TNVAT) dated 29.08.2017 for the assessment year 2014-2015 by passing a revised order 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 paper and paper boards. For the assessment year 2013-2014 and 2014-2015 (TNVAT), the respondent has determined the total and taxable turnover of Rs.1,36,54,580/- vide her order in TIN.No.33226022555/2013-205 dated 31.05.2017 and Rs.66,87,208/- vide his order in TIN No.33226022555/2014-2015. Against the assessment orders, the petitioner has filed appeals before the Appellate Deputy Commissioner (CT)(FAC), Trichy, in Appeal Nos. 116/17 (TNVAT) dated 29.08.2017 for the assessment year 2013-2014 and 117/17 (TNVAT) dated 29.08.2017 and the said appeals were partly allowed and partly dismissed on 29.08.2017. 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 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 29.08.2017, 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 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 Petition. Accordingly, the respondent is directed to give effect to the order of the Appellate Deputy Commissioner (CT)(FAC), Trichy, passed in116/17 (TNVAT) dated 29.08.2017 for the assessment year 2013-2014 and 117/17 (TNVAT) dated 29.08.2017 for the assessment year 2014-2015, by passing a revised order 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 ordered accordingly, ordered. No costs.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Commercial Tax Officer (CT) -IV,
Sivakasi,
Virudhunagar District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 76393
+ 2 CC TO Mr.R.D.GANESAN, ADVOCATE IN SR No. 75953 & 75954

CM
TE/RP/SAR-2 : 27/08/2018 : 3P/5C

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31.07.2018