BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **01.08.2018**

CORAM:

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

W.P(MD)No.17062 of 2018

M/s.P.S.M.N.Mariappa Nadar & Co.,
Rep. by its Partner,
Mr.G.Nagarajan : Petitioner

Vs.

The Commercial Tax Officer,
Chitrakara Street Assessment Circle,
Madurai. : Respondent

PRAYER: Writ Petition is 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 Tribunal order in MTA No.11/2013 (TNVAT), dated 27.12.2017 for the assessment year 2007-2008 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.B.Bhagavathi,
Government Advocate

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ORDER

The petitioner has come forward with the present Writ Petition seeking for issuance of a Writ of Mandamus, directing the respondent to give effect to the Tribunal order in MTA No.11/2013 (TNVAT), dated 27.12.2017 for the assessment year 2007-2008 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.B.Bhagavathi, learned Government Advocate, takes notice on behalf of the respondent.

3. The petitioner is a registered dealer in Iron & Steel. For the assessment year 2007-2008 (TNVAT), the respondent has determined the sales value of Rs.4,72,001/- vide her order in TIN.No.33494920147/2007-2008, dated 28.05.2012. Against the assessment order, the petitioner has filed an appeal before the

Appellate Deputy Commissioner (CT)(FAC), Madurai (South), Madurai, in Appeal No.& Year VAT 74/2012 (TNVAT) and the said appeal was dismissed on 15.11.2012. Against the appeal order, the petitioner has filed a second appeal before the Sales Tax Appellate Tribunal (AB), Madurai, in MTA No.11 of 2013 and the second appeal was allowed on 27.12.2017. 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 Tribunal order was passed as early as on 27.12.2017, 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 Tribunal.

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 Sales Tax Appellate Tribunal (AB), Madurai, in MTA No.11 of 2013, dated 27.12.2017, 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 Petition is, accordingly, ordered. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Commercial Tax Officer,
Chitrakara Street Assessment Circle,
Madurai.

+1cc to Mr.R.D.Ganesan, Advocate Sr.No.76101
+1cc to Spl.Government Pleader Sr.No.76367

SML

VB/MMS/SAR3/11.08.2018/3P/4C

Order made in
W.P(MD)No.17062 of 2018
01.08.2018