BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2018

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P(MD)No.17605 of 2018

M/s.Karur K.C.P.Packagings Limited,
rep. by its Chairman Mr.K.C.Palanishamy,
No.330/1, Chinna Andankoil Road,
Karur. .. Petitioner

Vs.

1. The Assistant Commissioner (CT),
   Karur South Assessment Circle,
   Karur.

2. The Secretary,
   Office of the Tamil Nadu Sales Tax
   Appellate Tribunal,
   Commercial Taxes Building,
   Dr.Thangaraj Salai,
   Madurai. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to give effect to the appeal order in VAT A.P.No.328 of 2015, dated 08.03.2018 for adjustment of excess amount against arrears of taxes in assessment years 2006-2007, 2007-2008, 2008-2009, 2010-2011 and 2011-2012 respectively and thereafter, to refund the overall excess amount along with interest in accordance with law.

For Petitioner : Mr.R.D.Ganesan
For Respondents : Mr.D.Muruganandam,
Additional Government Pleader

ORDER

This Writ Petition has been filed by the petitioner for a Mandamus, to direct the first respondent to give effect to the appeal order in VAT A.P.No.328 of 2015, dated 08.03.2018, for adjustment of excess amount against arrears of taxes in assessment years 2006-2007, 2007-2008, 2008-2009, 2010-2011 and 2011-2012 respectively and thereafter, to refund the overall excess amount along with interest, in accordance with law.

2. The petitioner is a manufacturer of craft paper and has been filing monthly returns under Section 22(2) of the Tamil Nadu Value Added Tax Act, 2006. On 30.10.2015, the first respondent has made revision of assessment for the year 2009-2010. Before passing the revision of assessment, the entire tax was fully paid and there was no balance of tax during the assessment time. Challenging the order of assessment, the petitioner has filed an appeal in A.P.No.VAT.328 of 2015. During the pendency of the same, the respondent has also passed the revision of assessment in respect of the assessment years 2006-2007, 2007-2008, 2008-2009, 2010-2011 and 2011-2012. On 08.03.2018, the said appeal was partly allowed by the appellate authority and thereby, the ITC claim of Rs.4,88,731/- was directed to be re-credited. Challenging the disallowed portion, the petitioner has preferred second appeal before the second respondent. But, the same was returned for want of "No Due Certificate" from the first respondent. The grievance of the petitioner is that though the appellate authority has passed the order as early as on 08.03.2018, the first respondent has not given effect to the order of the appellate authority and refund the overall excess amount, after adjusting the arrears of taxes. Aggrieved over the inaction of the first respondent, the petitioner is before this Court.

3. When the matter is taken up for hearing today, the learned Additional Government Pleader appearing for the respondents, by producing a proceedings in Na.Ka.No.986/2018/A3, dated 21.08.2018, submitted that the order passed by the appellate authority has been given effect to and the excess amount has been adjusted with the arrears of amount. The said submission of the learned Additional Government Pleader is recorded.

4. At this juncture, the learned counsel appearing for the petitioner requested this Court to direct the first respondent to refund the excess amount.

5. In view of the above, the first respondent is directed to refund the tax amount paid in excess along with interest due thereon to the petitioner, if any, in accordance with law, if there is no legal impediments, within a period of four weeks from the date of receipt of a copy of this order, failing which the first respondent will have to pay the interest for the delayed period.

6. This Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Assistant Commissioner (CT),
   Karur South Assessment Circle,
   Karur.

2. The Secretary,
   Office of the Tamil Nadu Sales Tax
   Appellate Tribunal,
   Commercial Taxes Building,
   Dr.Thangaraj Salai,
   Madurai.

+ 1 CC TO Mr.R.D.GANESAN, ADVOCATE IN SR No. 80063
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 79833

GCG
TE/RSK/SAR-2 : 24/09/2018 : 3P/5C

Order made in
W.P(MD)No.17605 of 2018
Dated: 23.08.2018