BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23155 of 2018

M/s.Srirangam Priya Promoters Private Limited,
Represented by its Managing Director A.Francis,
T.S.No.1294/14, Melur Road,
Srirangam,
Trichy. .. Petitioner

Vs.

The Assistant Commissioner (CT),
Srirangam Assessment Circle,
Trichy - 6. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus directing the respondent to pass a revision order for the assessment year 2013-14 under the TNVAT Act by giving effect to the order of the Sales Tax Appellate Tribunal (AB), Madurai in MTSA No.213/2016 dated 28.07/2017 and issue refund voucher within stipulated period as may be fixed by this Court.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.Aayiram K.Selvakumar
Additional Government Pleader

O R D E R

The petitioner is an assessee registered with the respondent. The petitioner suffered an order dated 29.04.2015. Questioning the same, he filed an appeal before the appellate authority. By order dated 18.03.2016, the appellate authority allowed the appeal and modified the original assessment year. Aggrieved by the allowed portion, the Department filed an appeal before the Tribunal. The said appeal was dismissed on 28.07.2017.

2. The grievance of the petitioner is that even though the Tribunal's order has become final and the same is yet to be given effect to. In other words, the original order will have to be revised in terms of order of the Tribunal. In this regard, he has given a representation dated Since it has not been considered so far, this writ petition has been filed.

3. Mr.Ponnusamy, the Assistant Commissioner, the Commercial Tax Srirangam Assessment Circle, Trichy, is present before this Court, This Court posed a question as to whether the Tribunal's order has become final. His response is that the Department has challenged the Tribunal's order by filing a Tax case. But he is unable to furnish details. However, he fairly stated that even though they have filed a Tax Case before this Court, they are yet to obtain an order of interim stay.

4. Section 42(5) of Tamilnadu Value Added Tax Act, 2006 states that such order shall be given effect to within a period of 90 days. In the present case, more than 16 months have lapsed. The respondent is directed to pass a revised order by giving effect to the Tribunal's order within a period of eight weeks from the date of receipt of a copy of this order. But then, this would be without prejudice to the right of the respondent to pursue the Tax Case. If the respondent is able to obtain an interim order before the said date or final order, obviously, the interim order or final order granted in the TAX Case will prevail.

5.With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Assistant Commissioner (CT),
Srirangam Assessment Circle,
Trichy - 6.

+1cc to Mr.S.Karunakar, Advocate, Sr.No.96275.
+1cc to Special Government Pleader, Advocate, Sr.No.96706.

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RAM-PS/SKN/SAR 4/14.12.2018/2P/4C