IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.35846 of 2007

Kovai Maruthi Paper & Boards Pvt.Ltd.,
Irukkur Kabilarmalai P.O.
Paramathi - Velur Tk,
Namakkal District.
Rep. by M.Rajagopalan,
Managing Director ...Petitioner

Vs

The Commercial Tax Officer,
Namakkal (Rural),
Namakkal District. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus or any other appropriate writ, or order or direction to the respondent to consider and dispose of the application dated 15.05.2007 filed by the petitioner and to refund the tax with consequential surcharge and additional tax in accordance with G.O.Ms.No.176 Commercial Taxes and Registration (B2) dated 28.12.2006 notified in Gazette Notn No.II(1)/CTR/58(d-2)/2006 dated 28.12.2006.

For Petitioner : Mr.C.M.Mohana Sundaram

For Respondent : Mr.Mohamed Shaffiq, Spl. GP

O R D E R

The limited prayer sought for in the present writ petition is for a Mandamus, directing the respondent to consider the petitioner's application dated 15.05.2007, seeking for refund of tax with consequential surcharge and additional tax in accordance with G.O.Ms.No.176, Commercial Taxes and Registration (B2), dated 28.12.2006.

2. Today, when the matter was called, the learned Special Government Pleader submitted that pursuant to G.O.Ms.No.176,

subsequent notifications were issued by the Government with certain conditions. One such notification is G.O.Ms.No.198, dated 19.12.2007.

3. In my view, the issue as to whether the petitioner is entitled for refund of tax with a consequential surcharge, requires to be considered by the authorities in accordance with the prevailing notifications and the Government orders and this Court may not be justified in taking a decision on the same by stepping into the shoes of the respondent. Nevertheless, if the petitioner is granted liberty to make a representation ventilating his grievances, the ends of justice would be secured.

4. In the light of the above observations, the petitioner is granted liberty to make a representation before the respondent herein and on receipt of the same, the respondent shall pass appropriate orders in accordance with law, within a period of 3 months from the date of receipt of such representation. While passing such orders, the respondent shall give due opportunities to the petitioner also to substantiate his case as set out in his representation.

5. Accordingly, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

hvk

To

The Commercial Tax Officer,
Namakkal (Rural),
Namakkal District.

+2cc to Mr.C.M.Mohana Sundaram, Advocate SR.No.49713, 48986

+1cc to Special Government Pleader SR.No.50032

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VD(CO)
GMY(02/08/2019)