IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.5054 & 5055 of 2010
and
M.P.Nos.1 & 1 of 2010

M/s.M.M.Forgings Ltd.,
95, Anna Salai,
Chennai - 600032. ...Petitioner in both WPs

Vs

The Assistant Commissioner (CT),
Saidapet Assessment Circle,
Chennai. ...Respondent in both WPs

PRAYER in W.P.No.5054 of 2010: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records of the respondent in TIN.33896220600/2007-08 and quash the order dated 02.02.2010 passed therein.

PRAYER in W.P.No.5055 of 2010: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records of the respondent in TIN.33896220600/2008-09 and quash the order dated 09.02.2010 passed therein.

For Petitioner : Mr.B.Raveendran
(in both WPs)

For Respondent : Mrs.Dhanamadhri,
(in both WPs) Government Advocate

C O M M O N   O R D E R

One of the main grounds raised by the petitioner in the present writ petitions is that they were not given an opportunity to produce these forms and that, if the notice proposing to reverse the Input Tax Credit had sought for these documents, the petitioner would have produced the same. The impugned orders have also been passed predominantly by observing that the petitioner has failed to produce sufficient documentary evidences to consider their claim for exemption.

2. It is the submission of the learned counsel for the petitioner that they are in possession of all the documents to substantiate their claim and that if an opportunity is given to them to produce these documents, they would comply with the same at the earliest.

3. No doubt, there is a duty cast on the petitioner to substantiate before the authorities that they are entitled for exemption based on the documentary evidences, which could have been produced before the authorities at the time of passing of the impugned orders. Nevertheless, if the respondent had sought these documents at the time of issuing the show cause notice itself, this situation could have been avoided. Now that the petitioner claims that they are in possession of all the required documents to substantiate their claim, this Court is inclined to take a lenient view and give one more opportunity to the petitioner.

4. In the light of the above observations, the impugned orders dated 02.02.2010 and 09.02.2010 are set aside and the matters are remanded back to the respondent herein for fresh consideration. The petitioner is also granted liberty to produce all the documentary evidences, which he relies upon for the purpose of substantiating their claim before the respondent herein, within a period of 15 days from the date of receipt of a copy of this order. On receipt of such documentary evidences, the respondent shall consider the same, after giving due opportunity of personal hearing to the petitioner and pass appropriate orders in accordance with law, within a period of 12 weeks therefrom.

5. Accordingly, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (CT),
Saidapet Assessment Circle, Chennai.

+1 cc to M/s.B.Raveendran,Advocate Sr.No. 68038
+1 cc to The Special Government Pleader Sr.No.68707

AKM/16.09.19/2P-4C /

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