IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.8925 of 2014

M/s.Swathanthra Industries,
Rep. by its Managing Partner,
No.28, Ambattur Industrial Estate,
Chennai - 600 058. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Ambattur Assessment Circle,
Chennai. ... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a WRIT OF MANDAMUS, directing the respondent to refund a sum of Rs.3,47,732/-, which was paid by the petitioner towards alleged sales tax due for the Assessment year 2006-2007.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.Hariharan,
Government Advocate (Tax)

O R D E R

The petitioner has filed the Writ Petition praying to issue a WRIT OF MANDAMUS, directing the respondent to refund a sum of Rs.3,47,732/-, which was paid by the petitioner towards alleged sales tax due for the Assessment year 2006-2007.

2.According to the learned counsel for the petitioner, the petitioner is the manufacturer of Cold Forged Components and is a registered dealer on the file of the respondent under Tamil Nadu General Sales Tax Act, 1956 and under the Central Sales Tax Act, 1959. While completing the assessment for the period 2006-2007, even though all the documents were furnished to support the contention of the petitioner, the respondent disallowed the claim of concessional levy for want of Form XVII on a turnover of Rs.1,13,606/- and levied tax at 9%. Similarly, the respondent levied tax at 12% on Rs.35,38,526/- on the sale to

EOU for want of green card and wrongly denied relief on labour charges of rs.56,65,694/-. Similarly, the respondent levied tax at 12% on Rs.3,70,436/-, which is relating to sales return, and levied 1% on a turnover of Rs.1,33,616/- under section 3(4) besides levying penalty of Rs.7,61,531/- under Section 12(3)(b).

3.Aggrieved by the assessment order passed by the respondent, the petitioner preferred an appeal in A.P.No.4 of 2010 before the Appellate authority i.e. the Appellate Deputy Commissioner, thereafter, the aforesaid appeal was allowed by the Appellate authority. The said appeal become final. But the respondent has failed to refund a sum of Rs.3,47,732/- (Rupees three lakh forty seven thousand seven hundred and thirty two only) paid by the petitioner towards alleged sale tax due for the assessment year 2006-2007 and hence, filed the present writ petition.

4.The learned Government Advocate (Tax) appearing for the respondent place the communication sent by the Assistant Commissioner (ST), Ambattur Assessment Circle to the Special Government Pleader (Taxes), Chennai dated 09.02.2019, wherein it is informed that due to bifurcation of Assessment Circles, the dealer viz., Swathanthra Industries was transferred to Pattravakkam Assessment Circle on 01.8.2014. Hence, the files related to the above said dealer were transferred to Pattravakkam Assessment Circle and further informed that no appeal has been preferred before the Tribunal and the said order is final.

5.In the light of the said submission of the learned Government Advocate (Tax), this Court is inclined to direct the Assistant Commissioner, Pattravakkam Assessment Circle to refund a sum of Rs.3,47,732/- (Rupees three lakh forty seven thousand seven hundred and thirty two only) paid by the petitioner towards alleged sale tax due for the assessment year 2006-2007, within a period of twelve weeks from the date of receipt of a copy of this order, failing which the respondent Department has to pay interest at the rate of 9% to the petitioner till the date of realization of the said amount.

6.Accordingly, the writ petition is disposed of with the above direction. However, there shall be no order as to costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1.The Assistant Commissioner (CT),
Ambattur Assessment Circle,
Chennai.

2.The Assistant Commissioner,
Pattravakkam Assessment Circle.

+1 CC to Mr.B.Raveendran, Advocate sr 16005.
+1 CC to The Spl. Govt. Pleader (T) sr 16409.

W.P.No.8925 of 2014

RGN(CO)
SP(27/05/2019)