IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.23330 of 2019

Tvl.Sri Dhanalakshmi Spintex Private Limited
Represented by its Director, N.Navanya ... Petitioner

vs.

The Assistant Commissioner (ST)
Avinashi Assessment Circle
Avinashi - 641 654.
... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent to refund back the excess collection of Rs.56,92,198/- with interest as requested vide letter dated 28.06.2019 and issue such further writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and render justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.V.Haribabu,
Additional Government Pleader

O R D E R

Mr.R.Chenniappan, learned counsel on record for writ petitioner and Mr.V.Haribabu, learned Additional Government Pleader, who accepts notice on behalf of the sole respondent are before this Court.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. Writ petitioner is a registered manufacturer/dealer in yarn and fabrics under 'Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006)', which shall hereinafter be referred to as 'TNVAT Act'. Writ petitioner effected transactions with inter-State buyers and also make sales through consignment agent in respect of which concessional rate of tax as well as exemption were claimed under Sections 8 and 6-A respectively of 'Central Sales Tax Act,1956' (' CST Act' for brevity).

4. Relevant forms for concessional rate of duty and exemption viz., Forms C and F respectively were also filed is learned counsel's say.

5. It is under the aforesaid circumstances, learned counsel submits that the tax paid is in excess of liability and the writ petitioner has sought refund of the excess payment vide a letter/representation dated 28.06.2019.

6. This 28.06.2019 representation from the writ petitioner is addressed to sole respondent and the local delivery note (photo copy) annexed to the same reveals that it has been served on the sole respondent on 01.07.2019.

7. Mr.V.Haribabu, learned Additional Government Pleader, who accepts notice on behalf of the sole respondent submits that the contentions of the writ petitioner have to be examined by the respondent on the basis of the records and a conclusion can be arrived at with regard to the request of the writ petitioner only thereafter.

8. Therefore, this Court deems it appropriate to direct the sole respondent to dispose of the aforesaid representation of the writ petitioner dated 28.06.2019 as expeditiously as possible and in any event within four weeks from the date of receipt of a copy of this order. Though obvious, it is made clear that such disposal of the said representation by the sole respondent shall be on its own merits and in accordance with law.

9. The disposal/decision taken by the sole respondent shall be communicated to the writ petitioner under due acknowledgement within seven working days from the date of decision.

10. Writ petition is disposed of with the above direction. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsm

To

The Assistant Commissioner (ST)
Avinashi Assessment Circle
Avinashi - 641 654.

+1cc to Mr.R.Chenniappan , Advocate SR.No.
+1 cc to Spl Government Pleader Sr.No. 68703

W.P.No.23330 of 2019

A.SK(20/09/2019)
A.SK(26/09/2019)