IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 21.08.2019
Coram
THE HONOURABLE MR. JUSTICE M.SUNDAR
W.P.Nos.24109, 24111 and 24112 of 2019

M/s.Nova Enterprises
Represented by its Partner
Door No.4 and 5, Flat No.F, 1st Floor
Daya Garden, 2nd Cross Street, New Colony
Chrompet, Chennai - 600 044 ... Petitioner in all W.P.s

vs.

The State Tax Officer
(Export Refund Claim)
Pammal Assessment Circle
No.32 & 33, 2nd Street, Sripuram
Chrompet, Chennai - 600 044
.. Respondent in all W.P.s

Prayer in W.P.No.24109 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to refund the excess Input tax of Rs.2,39,076/- available at the credit of the petitioner at the end of the assessment year 2015-2016 based on the petitioner's objections/letter dated 7.5.2019 filed consequent to the notices dated 24.04.2019 issued by the respondent as against the petitioner's application dated 10.04.2019 in the light of the law laid down by the Hon'ble Madras High Court in the case of R.K.Knits Vs. Assistant Commissioner (CT) Adyar II Assessment Circle, Chennai reported in 84 VST 521 and followed in a line of decisions.

Prayer in W.P.No.24111 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to refund the excess Input tax of Rs.6,97,656/- available at the credit of the petitioner at the end of the assessment year 2016-2017 based on the petitioner's objections/letter dated 7.5.2019 filed consequent to the notices dated 24.04.2019 issued by the respondent as against the petitioner's application dated 10.04.2019 in the light of the law laid down by the Hon'ble Madras High Court in the case of R.K.Knits Vs. Assistant

Commissioner (CT) Adyar II Assessment Circle, Chennai reported in 84 VST 521 and followed in a line of decisions.

Prayer in W.P.No.24112 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to refund the excess Input tax of Rs.5,15,139/- available at the credit of the petitioner at the end of the assessment year 2017-2018 based on the petitioner's objections/letter dated 7.5.2019 filed consequent to the notices dated 24.04.2019 issued by the respondent as against the petitioner's application dated 10.04.2019 in the light of the law laid down by the Hon'ble Madras High Court in the case of R.K.Knits Vs. Assistant Commissioner (CT) Adyar II Assessment Circle, Chennai reported in 84 VST 521 and followed in a line of decisions.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.V.Haribabu

Additional Government Pleader

ORDER

Mr.P.Rajkumar, learned counsel on record for writ petitioner in all these three writ petitions and Mr.V.Haribabu, learned Additional Government Pleader, who accepts notice on behalf of respondent in all these three writ petitions are before this Court.

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

3.This Court is informed without any disputation or disagreement that all these three writ petitions arise out of a common factual matrix, that the central theme/core issue is the same, that only the Assessment years are different and that the three Assessment years are 2015-16, 2016-17 and 2017-18. Obviously, the numerical values are also different.

4.The central theme/core issue in these writ petitions being the same, these writ petitions will be disposed of by this common order.

5.Notwithstanding very many averments made in the affidavits filed in support of the writ petitions, grounds/contentions raised/canvassed therein, in the hearing learned counsel for writ petitioner focused on one submission and that one submission is, writ petitioner had made three applications, all

dated 10.04.2019 for the aforesaid Assessment years seeking refund of 'Input Tax Credit' ('ITC' for brevity) under Section 18(1) and 18(2) of 'Tamil Nadu Value Added Tax Act, 2006' (Tamil Nadu Act 32 of 2006)', hereinafter 'TNVAT Act' for brevity. In response to these three applications, respondent sent three notices, all dated 24.04.2019 making certain proposals calling for objections with supporting documents. Relevant portion of the notices dated 24.04.2019 reads as follows:

> 'The dealers are requested to file their objections if any to above proposals in writing along with supporting documents within fifteen days on receipt of this notice. The dealers are also granted a personal hearing within fifteen days from the date of receipt of this notice. Failing which the above proposals will be confirmed and the orders will be passed, without further intimation. '

To be noted, the aforesaid extract is ad-verbatim the same in all three notices.

6. It is submitted by learned counsel for writ petitioner that in response to the aforesaid three notices, three separate objections, all dated 07.05.2019, were sent and the same have been duly received by the respondent on 08.05.2019, but nothing has happened thereafter.

7. Learned counsel for writ petitioner in the hearing abridges his prayer and submits that it will suffice if there is a direction to the respondent to pass orders on the basis of aforesaid objections to the aforementioned notices.

8. Therefore, the prayer now becomes innocuous.

9. The respondent is directed to consider the three objections of the writ petitioner, all dated 07.05.2019 for the Assessment years 2015-16, 2016-17 and 2017-18 in response to three notices, all dated 24.04.2019 (which in turn are in response to writ petitioner's three applications, all dated 10.04.2019 seeking refund of ITC) and pass orders on their own merits and in accordance with law as expeditiously as possible and in any event, within four weeks from the date of receipt of

a copy of this order. Orders so passed / order of disposal shall be communicated to the writ petitioner under due acknowledgement within seven working days from the date of such disposal.

These writ petitions are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gpa

To
The State Tax Officer
(Export Refund Claim)
Pammal Assessment Circle
No.32 & 33, 2nd Street, Sripuram
Chrompet, Chennai - 600 044

+1 cc to M/s.P.Rajkumar Advocate sr71307

W.P.Nos.24109, 24111 and 24112 of 2019

ad(co)
aa24/09/2019