IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.25042, 25045 & 25046 of 2019
and
W.M.P.Nos.24612, 24616 & 24617 of 2019

W.P.Nos.25042, 25045 & 25046 of 2019

M/s.R.R.K.Alloys
Represented by its Managing Director
D.Ramesh ...Petitioner(All wps)

vs.

The Assistant Commissioner (ST)
Avinashi Circle
Avinashi, Coimbatore. ...Respondent(All wps)

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the respondent herein in TIN Nos.33622084620/2013-2014, 33622084620/2014-2015 and 33622084620/2015-2016 respectively, dated 09.07.2019 and quash the same and direct the respondent herein to grant refund on the sales made to 100% EOU as zero rated sales as per the principles stated in 52 VST 286.

For Petitioner in all WPs : Mr.K.Narayanan
for Mr.N.Inbarajan

For Respondent in all WPs : Mr.Master Ganesh
Government Advocate (Tax)

C O M M O N O R D E R

Mr.Master Ganesh, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the orders of the respondent dated 09.07.2019, wherein and whereby, the request of the petitioner for refund was rejected in respect of the assessment years 2013-2014, 2014-2015 and 2015-2016.

3. Heard both sides.

4. The petitioner/Assessee claimed refund of sales to 100% Export Oriented Units. According to the Revenue, the petitioner/Assessee is not eligible for refund of sales to 100% Export Oriented Units and therefore, it was proposed to reject the claim of refund on the sales to 100% Export Oriented Units. Accordingly, a notice of proposal was issued to reject the refund claim. The petitioner/Assessee filed their reply on 22.11.2018, wherein, they have specifically contended that in respect of the sales made to 100% Export Oriented Unit situated in SEZ, the petitioner/Assessee is eligible to claim refund of the amount of tax paid on the purchase of goods mentioned in Schedule-I as per Section 18(1) and 18(2) of the Tamil Nadu Value Added Tax Act, 2006 subject to the condition that the claim needs to be made within a period of 180 days from the date of making Zero Rate Sales. It is their contention that the claim was made within the time stipulated. In support of such contention, the petitioner/Assessee also relied on certain case laws.

5. However, perusal of the impugned orders would show that the respondent though extracted the contentions raised by the petitioner in their reply and also the case laws referred to by the petitioner in support of such claim, he has simply rejected the claim only by observing that the decision relied on by the petitioner/Assessee are not applicable to them. Except stating so, the respondent has not adverted to any of the contentions raised by the Assessee in their reply. Therefore, it is apparent that the orders impugned in these writ petitions are not speaking orders with reasons and findings and on the other hand, the respondent seems to have confirmed the proposal, simply by stating that the case laws relied on by the Assessee are not applicable. I do not think that the respondent is justified in passing such non-speaking orders. At the same time, this Court is not expressing any view on the merits of the claim made by the petitioner, as it is for the respondent to consider the same and pass speaking orders with reasons and findings.

6. Accordingly, these Writ Petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the respondent for passing fresh orders on

merits and in accordance with law with reasons and findings. Such exercise shall be done by the respondent within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mk

To
The Assistant Commissioner (ST)
Avinashi Circle
Avinashi, Coimbatore.

+1cc to Mr.N.Inbaraj Advocate, S.R.No.76672

RK(CO)
CB(09/09/2019)

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