IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.28887 of 2019

M/s.EIS Techinfra Solutions (India) Pvt. Ltd.,

Rep. by its Authorized Signatory
No.3419, 3rd Cross, 10th Main
2nd Stage, Indira Nagar,
Bangalore. ...Petitioner

vs.

1. The Deputy Commercial Tax Officer
   Air Cargo Vehicle Check Point
   International Cargo Premises
   Meenambakkam,
   Chennai-600 027.

2. The Joint Commissioner (ST)
   Chennai (East) division
   Greams Road,
   Chennai-600 006. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the second respondent to admit the revision petition which was already filed by the petitioner on 29.12.2017 as per the directions of the Madras High Court in its order in W.P.No.17298 of 2017 for the G.d.No.40009/2017-2018 dated 29.06.2017.

For Petitioner :Mr.C.Bakthasiromoni

For Respondents :Mr.M.Hariharan
Additional Government Pleader(taxes)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks for a mandamus directing the second respondent to admit the revision petition dated 29.12.2017 and pass orders on the same, as per the directions already issued by this Court in W.P.No.17298 of 2017 dated 26.07.2017.

3. It is seen that the petitioner earlier approached this Court and filed a writ petition in W.P.No.17298 of 2017 and challenged the goods detention notice dated 29.06.2017. The said writ petition was disposed of by this Court on 26.07.2017, by observing at Paragraph No.3 as follows:

> 3. The petitioner would contend that, as against the compounding notice issued by the respondent, the petitioner will file a Revision Petition before the concerned Revisional Authority, and prays that, the petitioner may be permitted to raise all the contentions before the Revisional Authority. The petitioner's contention is that, the goods are imported goods, which are sold to the ultimate purchasers, at Chennai, and they are used as 'industrial inputs' for Information Technologies Companies, which are liable to be taxed at 5% under commodity code 2068, included in the first schedule Part B, Serial No.68 of TN 2006. The petitioner has also produced a copy, picturizing the Technical Writeup of the Switcher, which they have imported to demonstrate that, they are information technologies products and liable to be taxed only at the rate 5%. This contention raised by the petitioner, in this Writ Petition as well as all the other contentions can be canvassed before the Revisional Authority, and accordingly, this Court directs the Revisional Authority, to take into consideration those contentions and pass a speaking orders in the Revision Petition, that will be filed by the petitioner. It is made clear that, the payment of one time tax shall be subject to the order to be passed by the Revisional Authority, in the Revision Petition.

4. Thereafter, the petitioner presented a revision petition dated 29.12.2017, which was received by the second respondent on 19.01.2018. However, the said revision was returned on 11.07.2018 by contending that there is a delay in filing the same and that the writ petition filed by the petitioner in W.P.No.17298 of 2017 is pending before this Court.

5. On perusal of the facts and circumstances of the case and the order passed by this Court in W.P.No.17298 of 2017 dated 26.07.2017, this Court is of the view that the second respondent is not justified in returning the revision on the reason that it is time barred, especially when this Court has specifically directed the Revisional Authority to consider the contentions raised by the petitioner and pass a speaking order in the revision petition. It is also factually incorrect to say that the above writ petition filed before this Court in W.P.No.17298 of 2017, is pending as on date of passing of the proceedings dated 11.07.2018. Therefore, I find that the second respondent is not justified in returning the revision petition.

6. Accordingly, this Writ Petition is allowed with the following terms:

(a) The petitioner shall represent the revision petition with a copy of the order passed by this Court in W.P.No.17298 of 2017 dated 26.07.2017 within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such revision, the second respondent shall pass orders on the same on merits and in accordance with law, without reference to the period of limitation, within a period of six weeks thereafter.

No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

mk Sub Assistant Registrar

To

1. The Deputy Commercial Tax Officer
Air Cargo Vehicle Check Point
International Cargo Premises
Meenambakkam, Chennai-600 027.

2. The Joint Commissioner (ST)
Chennai (East) division
Greams Road, Chennai-600 006.

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BP(CO)
SSM(04/10/2019)