IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.26064 of 2014

Sri Sitha Ramanjaneya Cotton Traders,
rep., by its Proprietor V.Balaih,
Chandramouli Nagar, Ring Road,
7th Lane B, Guntur,
Andhra Pradesh. ..Petitioner

-Vs-

1.The Commercial Tax Officer,
Enforcement-I, Coimbatore-641 018.
2.The Joint Commissioner (CT),
(Enforcement), C.T. Building,
Dr.Balasundaram Road,
Coimbatore-641 018. ..Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Mandamus, directing the respondents 1 and 2 to refund back the tax amount of Rs.67,821/- and compounding fees of Rs.1,35,643/- immediately as there was no sale taken place in the State of Tamil Nadu or inter-State sales from Andhra Pradesh.

For Petitioner : Mr.R.Seniappan
For Respondents : Ms.G.Dhanamadhri, GA (T)

O R D E R

Today, the matter is listed through Video Conference. By consent of both the parties, the Writ Petition is taken up for final disposal.

2. The prayer in the present Writ Petition is for a direction to the respondents to refund the tax amount of Rs.67,821/- and the compounding fees of Rs.1,35,643/- on the ground that there was no sale which has taken place in the State of Tamil Nadu or Inter-State of Andhra Pradesh. At the outset, it requires to be pointed out that the present Writ Petition seeking for a Writ of Mandamus is not maintainable since the appropriate authority to consider such a claim for refund would be the respondents herein and this Court, exercising its powers under Article 226 of the Constitution of India, will not be

justified in stepping into the shoes of the statutory authority to consider such claim. No records have been produced before this Court establishing that the petitioner had approached the statutory authority prior to the filing of the present Writ Petition. As such, the Writ Petition itself, is not maintainable.

3. At this juncture, the learned counsel for the petitioner would submit that they are entitled to seek for refund and therefore seeks for liberty to make a representation. In consideration of such a request and in the interest of justice, this Court is of the view that the petitioner can be given liberty to approach the authorities seeking for refund, in case, they are entitled to.

4. In the light of the above observations, the Writ Petition stands dismissed. However, the petitioner is granted liberty to make an application, within a period of 30 days from the date of receipt of a copy of this order before the second respondent herein, establishing their grounds for entitlement of the refund of tax. On receipt of such an application, the second respondent herein shall consider the same on its own merits and after giving due opportunity of personal hearing to the petitioner and thereafter take appropriate further course of action, in accordance with law, as expeditiously as possible. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commercial Tax Officer,
Enforcement-I, Coimbatore-641 018.

2.The Joint Commissioner (CT),
(Enforcement), C.T. Building,
Dr.Balasundaram Road,
Coimbatore-641 018.

+1cc to Special Government Pleader(Taxes), SR.26524

W.P.No.26064 of 2014

NRL (CO)
RV (07/09/2020)