$~Suppl. 12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P. (C) 7333/2020

SRF LIMITED ..... Petitioner

Through: Mr. Sudhir Sangal, Advocate with Ms. Vidhi Gupta, Advocate.

versus

COMMISSIONER OF VAT & ANR. ..... Respondents

Through: Mr. Satyakam, Additional Standing Counsel.

% Date of Decision: 17th December, 2020

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

2. Present writ petition has been filed challenging the order dated 11th December, 2019 passed by respondent no.1 whereby petitioner's request for issuance of Form 'F' has been rejected on the ground that the dealer did not rectify the error in the returns within the specified time period. Petitioner also prays for a direction to the respondent to issue Forms 'F' pertaining to

fourth quarter of the year 2015-16 to the petitioner company.

3. Learned counsel for the petitioner states that while filing its returns for the fourth quarter of the year 2015-2016, out of the total inwards stock received on stock transfer basis, the petitioner had erroneously omitted to include goods of the value of Rs. 1,75,01,990/- against eight stock transfer invoices from Bharuch.

4. He further states that having discovered the aforesaid mistake, the petitioner approached DVAT Department, Delhi vide letter dated 22-04-2018 to seek permission to amend the revised return so as to enable it to download Forms F for the Quarter ending 31-03-2016. He points out that after a reminder letter dated 16th October, 2019 was written by the petitioner, the impugned order was passed wherein it was stated that the time limit to file the revised return had already expired and that Petitioner cannot be permitted to revise the returns.

5. Learned counsel for the petitioners submits that submitted that Respondent No. 1 ought to have prescribed conditions to issue of 'F' forms to the Petitioner-Company in terms of Rule 8 of CST (Delhi) Rules, 2005 instead of rejecting the request of the Petitioner Company.

6. He relies upon the order of this Court in ***M/s. Ingram Micro India Pvt. Ltd. v. Commissioner DT&T & Anr., W.P. (C) No. 8272/2015***.

7. On the other hand, Mr. Satyakam, learned Standing counsel for the respondents submits that the decision of this Court in ***M/s. Ingram Micro India Pvt. Ltd*** (supra) is under challenge before the Supreme Court in Civil Appeal No. 4573/2017 and the Supreme Court has granted leave in the said matter vide order dated 27th March, 2017. He also points out that this Court rendered decisions in several similar cases, including ***W.P. (C) No.***

2633/2017, M/s. Indian Oil Corporation Ltd. v. Commissioner, VAT decided on ***11th April, 2017***, which have been appealed against in the Supreme Court and the Supreme Court has stayed the operation of the judgment of this Court.

8. Mr. Satyakam points out that in the light of the interim orders passed by the Supreme Court, while deciding another writ petition i.e. ***Ingram Micro India Ltd. v. Commissioner, Department of Trade and Taxes and Anr., W.P. (C) No. 8435/2018***, decided on 04th December, 2018, this Court issued directions for issuance of segregated and separate 'C' Forms. However, the directions issued by this Court were suspended till the Civil Appeals before the Supreme Court were pending.

9. Same is the position in the decision of this Court in ***Allied Automation Engineering Services Pvt. Ltd. v. Commissioner of Trade and Taxes, W.P. (C) No. 9474/2018*** decided on 10th September, 2018, in ***M/s. Samsung C&T Pvt. Ltd. v. The Commissioner, Trade & Taxes, & Anr., W.P. (C) No. 4092/2017*** decided on 15th February, 2019, in ***E.I. Dupont India Private Limited v. Commissioner, VAT, Delhi & Anr, C.M. No. 47356/2018 in W.P. (C) No. 4952/2017*** decided on 27th February, 2019, in ***C G Power And Industrial Solutions Limited vs Department of Trade and Taxes & Ors., W.P. (C) No. 3024/2019*** decided on 15th January, 2020, in ***Shri Uday Jain Prop. M/s Dhoomimal Gallery Vs. Commissioner, Trade and Taxes & Ors., W.P.(C) No. 4411/2020*** decided on 23rd July, 2020 and in ***GSP Power System Pvt. Ltd. Vs. Commissioner of Goods and Services Tax Department of Trade and Taxes and Anr., W.P.(C) 7411/2020,*** decided on 05th October, 2020.

10. Mr. Satyakam contends that this Court has recently in similar matters been either adjourning matters or is allowing the petition but suspending the relief till the civil appeals pending in the Supreme Court are decided.

11. Having heard the counsel for the parties, this Court is of the view that no useful purpose would be served by keeping the petition pending. Consequently, this Court directs the respondent no.1 to allow the amendment sought for by the petitioner in its return of fourth quarter of Year 2015-16. However, this direction shall remain suspended till the Civil Appeals pending before the Supreme Court, taken note of hereinabove, are decided and this direction shall abide by the decision that the Supreme Court renders.

12. With the aforesaid direction, present writ petition and pending applications stand disposed of.

13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

DECEMBER 17, 2020
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