BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.02.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.1948 of 2017
and
W.M.P.(MD)Nos.1601 & 1602 of 2017

M/s.Foam India,
Rep. by Sampath
No.6/4, Vayalur Main Road,
Uyyakondan Thirumalai,
Trichy-620 102. ... Petitioner

-Vs-

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Commercial Taxes and
Registration Department,
Fort St.George,
Chennai-600 009.

2.The Authority for clarification and
Advance Ruling,
Rep. by its Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The Assistant Commissioner (CT),
Woraiyur Assessment Circle,
Trichirappalli. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33053443176/2015-16, dated 28.11.2016 and quash the same.

For Petitioner : Mr.S.Rajasekar
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

2.The petitioner is a dealer registered with the third respondent. The case on hand pertains to the assessment years 2015-16. The petitioner's returns were assessed under Section 22(4) of TNVAT Act, 2006 and the authority called upon the petitioner to pay the differential rate of tax at 9.5 %. The petitioner, while filing the returns, had paid the tax at 5%. The assessing authority took the view that the petitioner's product is an industrial input and that since the necessary certificate under Rule 6(3)(b) of TNVAT Rules, 2007, was not filed, the petitioner will have to pay further tax at 9.5 %. The Assessing Authority went by the ruling made by the authority for clarification and advance ruling in the review proceedings vide order dated 02.12.2014 in A.C.A.A.R.No.15/2012-13. The learned counsel for the petitioner submitted that since the said order dated 02.12.2014 given by the authority has been set aside in W.P.(MD)No.1947 of 2017, the impugned order will have to go.

3.At this stage, the learned Special Government Pleader submitted that even while quashing the impugned order in the writ petition, the matter may be remitted to the file of the third respondent, so that, the third respondent can pass orders afresh in accordance with law.

4.I find the said submission to be correct. Since the impugned order is anchored on the order dated 02.12.2014 rendered by the second respondent and since the said order has been quashed in W.P.(MD)No.1947 of 2017, the order impugned in the writ petition is quashed. The matter is remitted to the file of the third respondent. The third respondent will hear the petitioner and thereafter, pass orders afresh in accordance with law. The third respondent will complete its exercise within a period of sixteen weeks from the date of receipt of a copy of this order.

5.The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government,
Department of Commercial Taxes and
Registration Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Commercial Taxes,
The Authority for clarification and
Advance Ruling,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The Assistant Commissioner (CT),
Woraiyur Assessment Circle,
Trichirappalli.

+1 CC to M/s.SPL GP (SR-7542[F] dated 26/02/2021)

W.P.(MD)No.1948 of 2017
and
W.M.P.(MD)Nos.1601 & 1602 of 2017

ARK(CO)
KB(30.04.2021) 3P 5C