

In the High Court of Judicature at Madras

Dated: 31.01.2008

Coram

The Honourable Mr.JUSTICE F.M.IBRAHIM KALIFULLA

W.P.Nos.154 and 155 of 2008

Sri Muhuntha Paper Boards
No.20, C.H.B. Colony, Street No.1,
Tiruchengode, Namakkal District,
Rep. By S.Jagadeesh-Partner. Petitioner in both W.Ps.

Vs.

The Deputy Commercial Tax Officer,
Tiruchengode Town Assessment Circle,
Tiruchengode,
Namakkal District. Respondent in both W.Ps.

W.P.No.154 of 2008:

PETITION under Article 226 of The Constitution of India praying for the issuance of writ of mandamus directing the respondent to issue a Refund Voucher to the petitioner in pursuance of his order in TNGST No.3182455/04-05 dated 10.8.2007 with Refund Order in Form 'C' for a sum of Rs.2,66,767.00 in accordance with Section 24(4) of the TNGST Act 1959 read with Rule 16 of TNGST Rules, 1959.

W.P.No.155 of 2008: PETITION under Article 226 of The Constitution of India praying for the issuance of writ of mandamus directing the respondent to issue a Refund Voucher to the petitioner in pursuance of his order in TNGST No.3182455/05-06 dated 30.6.2007 with Refund Order in Form 'C' for a sum of Rs.4,60,188.00 in accordance with Section 24(4) of the TNGST Act 1959 read with Rule 16 of TNGST Rules, 1959.

For Petitioner : Mr. Ghafoorur Rahman

For Respondent : Mr.R.Mahedavan A.G.P.

O R D E R

Heard the learned counsel for the petitioners as well as the learned Government Pleader.

2. In W.P.No.154 of 2008 the petitioner seeks for the following prayer:

"to issue a writ of mandamus directing the respondent to issue a Refund Voucher to the petitioner in pursuance of his order in TNGST No.3182455/04-05 dated 10.8.2007 with Refund Order in Form 'C' for a sum of Rs.2,66,767.00 in accordance with Section 24(4) of the TNGST Act 1959."

In W.P.No.155 of 2008, the petitioner seeks for the following prayer:

"to issue a writ of mandamus directing the respondent to issue a Refund Voucher to the petitioner in pursuance of his order in TNGST No.3182455/05-06 dated 30.6.2007 with Refund Order in Form 'C' for a sum of Rs.4,60,188.00 in accordance with Section 24(4) of the TNGST Act 1959"

3. According to the petitioners, by virtue of passing of G.O.Ms.No.176, Commercial Taxes and Registration (B2) dated 28.12.2006 published in Gazette Notification No.II(1)/CTR/58(d-2)/2006 dated 28.12.2006, exemption was granted in respect of Tax payable under the TNGST Act, by any dealer on the last purchase value of waste paper and waste paper Board and that the said notification was also deemed to have come into force on 16.6.2000 and remained in force up to and inclusive of 21.7.2006. It is on that basis, the petitioner would contend that the revised order of assessment was passed by the respondent dated 10.8.2007 providing for refund of Rs.2,66,767/- by his refund order in Form 'C'. However, the refund voucher was not issued to the petitioner.

4. Learned Government Pleader however pointed out the subsequent G.O.Ms.No. 198 Commercial Taxes and Registration (B2) dated 19th December 2007, a further condition came to be imposed for consideration of refund based on G.O.Ms.No.176 Commercial Taxes and Registration (B2) dated 28.12.2006 to the effect that such provision for refund would be applicable to those who made inter-State transaction alone.

5. Having regard to the said G.O.Ms.No.198 Commercial Taxes and Registration (B2) dated 19.12.2007, the petitioner is directed to make a representation to the respondent for grant of refund voucher subject to the satisfaction of such conditions imposed in G.O.198 dated 19.12.2007 and in the event of such representation being made by the petitioner herein before the respondent within two weeks from the date of receipt of copy of this order, the respondent shall consider the same and pass appropriate orders within four weeks thereafter.

6. The writ petitions are ordered on the above terms.
No costs.

VJY

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Deputy Commercial Tax Officer,
Tiruchengode Town Assessment Circle,
Tiruchengode,
Namakkal District.

+ 2 ccs to M/s. Md. Ghafoorur Rahman, Advocate SR Nos.4615 & 4616

+ 1 cc to Spl Govt Pleader (Taxes) Chennai 104 SR No. 4626

BVN (CO)
SR/14.2.2008

सत्यमेव जयते W.P.Nos.154 and 155 of 2008

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