IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.65 of 2015

Prasad Properties and Investment Pvt. Ltd.,
represented by its Director Mr.A.Manohar Prasad,
No.28,New Bangaru Colony,
West KK Nagar,
Chennai-600 078. .. Appellant

Vs.

The Commercial Tax Officer,
T.Nagar (North) Assessment Circle,
No.46,Greenways Road,
Raja Annamalaipuram,
Chennai-600 028. .. Respondent

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 07.11.2014 made in W.P.No.29018 of 2014.

W.P.No.29018/14 filed under Article 226 of the constitution of India for issuance of a writ of mandamus directing the respondent to refund a sum of Rs.1 50 00 000/- paid as deposit to the petitioner along with interest in consequence to order dated 21.03.2014 passed by this Honourable High Court in Tax Appeal (Revision) Nos.119 120 and 121 of 2009.

For Appellant : Mr.Joseph Prabakar

For Respondent : Mr.Manoharan Sundaram,
AGP (Taxes)

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 07.11.2014 passed by the learned Single Judge in W.P.No.29018 of 2014, wherein the petitioner / appellant sought a direction to the respondent to refund a sum of Rs.1,50,00,000/- paid as deposit to the petitioner along with interest in consequence to the order dated 21.03.2014 passed in Tax Case (Revision) Nos.119,120 and 121 of 2009.

2. The learned Single Judge, recording the facts in nutshell, observed that since the order of refund is sought consequent to the direction / order, as aforestated, passed by the Division Bench in Tax Case (Revision) Nos.119,120 and 121 of 2009, it would be proper to file a separate application or miscellaneous application in the Tax Case revision.

3. We do not find any error in the order as the cause of action arose from the common order passed by this court in the Tax case revision. Thus, the proper course would be to prefer an application in the same Tax case (Revision) Nos.119, 120 and 121 of 2009 for appropriate relief and as such, it was rightly held that the writ petition was not maintainable. The learned Writ Court has also granted liberty to the petitioner accordingly. We do not find any merit worthwhile to interfere with the order passed by the learned writ court. Accordingly, the writ appeal is dismissed, upholding liberty granted to the writ petitioner. No costs.

Sd/-
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

vvk

To

The Commercial Tax Officer,
T.Nagar (North) Assessment Circle,
No.46,Greenways Road,
Raja Annamalaipuram,
Chennai-600 028.

1 cc to Special Government Pleader (Taxes), Sr. 3611

W.A.No.65 of 2015

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