IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P.No.15951 of 2015

Dineshchandra Agarwal
... Petitioner

-Versus-

1. The Special Tahsildar,
   Spicot-Irungattukottai Expansion Scheme,
   Unit-3, Sriperumbudur.

2. The Assistant Director of Income Tax
   Centralized Processing Centre,
   Income Tax Department,
   Prestige Alpha Building,
   Hosur Road, Bangalore 560 100.
...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 1st respondent to deposit the tax deducted from the petitioner to the account of the 2nd respondent with interest.

For Petitioner	:	Mr.S.Chandrasekharan
For Respondent(s)	:	Mr.A.Kumar, Spl. G.P. for R1
		Mr.T.Pramod Kumar Chopda for R2

ORDER

This writ petition has been filed for the issuance of a writ of mandamus to direct the respondents to deposit the tax deducted at source from the amount payable to the petitioner towards compensation for the land acquired by the State to the account of the 2nd respondent with interest

2. It is the case of the petitioner that he was the owner of the agricultural land comprised in SF No.297/2, 298/5 and 298/6 of Vengadu Village, Sriperumbudur Taluk by virtue of purchase. While so, the State had acquired the above said land for the purpose of establishing "SIPCOT Irungattukottai Expansion Scheme Unit-III" and the petitioner was also awarded compensation of Rs11,65,500/- According to

the petitioner, even though the compensation awarded for such acquisition is not subject to tax deductable at source as per the provisions the Land Acquisition Act, the 1st respondent illegally deducted a sum of Rs.1,32,051/- towards tax deductable at source and other charges from the compensation amount and paid the balance amount of Rs.10,33,449/-. Hence the petitioner sent a legal notice dated 09.03.2015 to the 1st respondent and his higher ups. Since no action has been taken on the said legal notice, the present writ petition has been filed.

3. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the 1st respondent and the learned senior standing counsel appearing for the 2nd respondent.

4. Learned counsel appearing for the petitioner would submit that as per the provisions of Income Tax Act, no deduction can be made with regard to TDS in respect of compensation awarded towards acquisition of agricultural land. Further, according to the learned counsel, even assuming that such deduction is permissible in law, for the delay caused at the end of the revenue authorities, the authorities concerned are alone liable to bear the interest, if any, payable to the Income Tax Department and the petitioner, who had already suffered on account acquisition of land, cannot be made to suffer further.

5. The above submission made by the learned counsel for the petitioner cannot be countenanced in its entirety. The one and only grievance of the petitioner is that TDS amount so deducted has not been deposited in time and therefore, the petitioner seeks to direct the 1st respondent to deposit the TDS amount with interest. It is the bounden duty of the Government to deduct TDS and remit the same to the Income Tax Department. Admittedly, subsequent to the filing of this writ petition, the 1st respondent has deposited the TDS amount deducted from the compensation payable to the petitioner. Had it been deposited in time, the petitioner would have been made a claim for refund by filing necessary application before the competent income tax authority.

6. Today, the learned Special Government Pleader appearing for the 1st respondent produced a Xerox copy of statement of TDS dated 10.07.2015 which shows the details of deposit.

7. The petitioner already filed income tax return for the said period. Now, on the basis of the TDS statement, the income tax officer is to necessarily rectify the order already passed.

8. In view of the above, the petitioner is permitted to file the copy of the returns along with TDS statement before the territorial income tax officer within a period of two weeks from the date of receipt of a copy of this order. On such filing, the concerned income tax officer is directed to accept the same and to pass necessary

rectified orders within a period of four weeks thereafter. On passing such order, the refund claim, if any, shall be considered immediately thereafter. The writ petition is disposed of accordingly. No costs.
Kmk

To

1. The Special Tahsildar,
   Spicot-Irungattukottai Expansion Scheme,
   Unit-3, Sriperumbudur.

2. The Assistant Director of Income Tax
   Centralized Processing Centre,
   Income Tax Department,
   Prestige Alpha Building,
   Hosur Road, Bangalore 560 100.

+1 C.C. To MR.S.Chandrasekharan, Advocate in SR.NO.57744

+1 C.C. To MR.T.Pramodkumar Chopda, Advocate in SR.NO.51749

+1 C.C. To Government Pleader in SR.NO.57894

W.P.No. 15951 of 2015

PPA(CO)
sd : 27/10/2015