IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2015

CORAM:

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

W.P.No.25175 of 2015

K.Krishnamoorthy ... Petitioner

Vs

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Special Tahsildar (LA),
Inner Ring Road,
Alandur Municipality,
Now at Chromepet, Chennai - 44.

3.The Chief Commissioner,
Income Tax Department,
Nungambakkam High Road,
Chennai - 34.

4.The Income Tax Officer,
Circle 3 Non Corp Ward 22 (3) TBM,
Tambaram, Kancheepuram District. ... Respondents

Writ petition filed under Article 226 of the Constitution of India for the issuance of writ of mandamus to direct the respondents to refund the sum of Rs.1,71,005/- being the amount deducted from the compensation amount towards the tax deductable at source and remitted the above amount to the third and fourth respondents under tax deduction A/c TANCHES No.31461-D in respect of agricultural land comprised in T.S.No.1/5 measuring 345 sq.mtrs situated at Kadaperi Village, Madurantakam Taluk, Kancheepuram District.

For Petitioner : Mr.N.Nagu Sah
For Respondents : Mr.M.S.Ramesh,
Addl. Govt. Pleader for R1 & R2
Mr.T.Pramodkumar Chopda,
Sr. Standing Counsel for R3 & R4

ORDER

This writ petition has been filed for the issuance of a writ of mandamus to direct the respondents to refund a sum of Rs.1,71,005/-, being the amount deducted from the compensation amount towards the tax deductable at source and remitted the above amount to the third and fourth respondents under tax deduction A/c TANCHES No.31461-D in respect of agricultural land comprised in T.S.No.1/5 measuring 345 sq.mtrs situated at Kadaperi Village, Madurantakam Taluk, Kancheepuram District.

2.It is the case of the petitioner that he was the owner of the agricultural land comprised in T.N.No.1/5 measuring an extent of 345 sq.mtrs at Kadaperi Village, Madurantakam Taluk, Kancheepuram District and the said land was acquired by the Highways Department for widening of the road and the petitioner was also awarded compensation of Rs.15,24,114/-. According to the petitioner, even though the compensation awarded for such acquisition is not subject to tax deductable at source as per Section 194 of the Land Acquisition Act, the second respondent illegally deducted a sum of Rs.1,71,006/- towards tax deductable at source and other charges from the compensation amount and paid the balance amount of Rs.13,53,108/-. Hence the petitioner sent a legal notice dated 30.09.2014 to the first respondent, who, in turn, by letter dated 27.10.2014, directed the second respondent to take appropriate action. Subsequently, the petitioner made a representation dated 16.07.2015 to the fourth respondent for refund of TDS amount. Since no action has been taken on the said representation, the present writ petition has been filed.

3.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned senior standing counsel appearing for the respondents 3 and 4.

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.

5.The above submission made by the learned counsel for the petitioner cannot be countenanced in its entirety. It is the bounden duty of the Government to deduct TDS and remit the same to the Income Tax Department. The one and only grievance of the petitioner is that TDS amount so deducted has not been deposited in time so that the petitioner was not in a position to claim refund by filing necessary application before the competent income tax authority.

6.Today, the learned Additional Government Pleader appearing for the respondents 1 and 2 produced the statement of TDS dated 08.09.2015, showing the details of deposit.

7.In view of the above, the petitioner is permitted to file necessary manual returns of income 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 of the manual returns of income related to the period in question, the concerned income tax officer is directed to accept the same without raising any issue on limitation and to pass necessary orders within a period of four weeks thereafter. On passing such an order of assessment, the refund claimed, if any, shall be considered immediately thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The District Collector,
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Circle 3 Non Corp Ward 22 (3) TBM,
Tambaram, Kancheepuram District.
+1 cc to Mr.N.Nagu sah, Advocate, sr.51347
+1 cc to Mr.T.Pramodkumar Chopda, Advocate, sr.51303
+1 cc to Government Pleader, sr.51887

W.P.No.25175 of 2015

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