IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 14.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24558 of 2015

Lincoln Electric Company (India) Private Limited
P-40, Central Avenue
DTA, Mahindra World City
Mahindra World City Post Office
Chengalpattu
Kancheepuram District-603 002
Rep. by its Authorised Signatory .. Petitioner

Vs.

1. Government of Tamil Nadu
Rep. by Secretary
Department of Revenue
Fort St. George, Chennai - 600 009

2.Anjur Panchayat
Represented by President
Mahindra World City
Chengalpattu
Kancheepuram District - 603 204 .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the second respondent to accept the payment of professional tax for the period from October 2014 to March 2015.

For Petitioner : Mr.G.Anand Gopalan for
M/s.T.S.Gopalan and Co.

For Respondents: Mr.A.Zakkir Hussain
Government Advocate

O R D E R

Heard Mr.G.Anand Gopalan, learned counsel appearing on behalf of M/s.T.S.gopalan and Co., learned counsel on record for the petitioner and Mr.A.Zakkir Hussain, learned Government Advocate for the respondents. With the consent of the learned counsel appearing on either side, the writ petition itself is taken up for final disposal.

2. The petitioner has approached this Court with an innocuous prayer calling upon the second respondent to accept the payment of professional tax for the period from October 2014 to March 2015. It is not in dispute that the petitioner has been operating their unit from 2009 and they have been regularly remitting professional tax, which has been accepted by the second respondent. All of a sudden, in October 2014, the second respondent refused to receive the professional tax for the reason best known to him. Therefore, the petitioner came before this Court.

3. From the records of the proceedings, it is seen that the second respondent has also defied the notice sent by this Court and did not appear. As the petitioner had been regularly remitting professional tax, the second respondent at his whims and fancies cannot refuse to receive the same. The counter affidavit filed by the second respondent is absolutely untenable and perverse. The reason given by the second respondent is that a notice was given to the petitioner on 30.08.2015 and since the petitioner did not give any reply to the notice, the second respondent has refused to accept the professional tax. This stand taken by the second respondent is totally untenable and it is an irresponsible statement. Furthermore, the petitioner has denied the receipt of any such notice.

4. Therefore, this Court can reasonably presume that there is some other agenda in the mind of the second respondent, which has resulted in such arbitrary exercise of power. The professional tax, being a statutory levy, is bound to be paid by the petitioner and bound to be received by the second respondent, especially when the second respondent has been receiving the tax from 2009 onwards.

5. Therefore, the writ petition is allowed as prayed for and the second respondent is directed to receive the professional tax from October 2014 onwards and continue to receive the same and issue receipts to the petitioner. If the second respondent refuses to receive the professional tax as per the direction of this Court, it is open to the petitioner to move this Court and also to give a written complaint to the District Collector, Kancheepuram District for initiating action against the second respondent under Section 205 of the Panchayat Act, 1995. No costs.

gpa

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
Department of Revenue
Fort St. George, Chennai - 600 009

2.The President
Anjur Panchayat
Mahindra World City
Chengalpattu
Kancheepuram District - 603 204

Copy to:
The District Collector,
Kancheepuram District,
Kancheepuram.

+ 1 cc to Govt.Pleader SR 32764

+ 1 cc to M/s.T.S.Gopalan & Co , Advocate SR 32391

nrjk(co)
prk23/6 W.P.No.24558 of 2015