IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 21.6.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.27403 of 2015

Ranippettai Engineering
College Rep by its Secretary Mr. B. Bose
Thenkadappanthangal-632 513 Wallaja Taluk
Vellore District .... petitioner

versus

1 The Assistant Commissioner
(C.T) Ranipet Vellore District.

2 The Joint Commissioner (C.T)
Vellore Division Vellore.

3 The Branch Manager
Indian Bank Thenkadappanthangal Wallaja
Taluk Vellore District. .... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the first respondent in RC A3/2135/2014 dated 22-12-2014 quash the same and consequently direct the first respondent to withdraw the Form U issued to the third respondent and consequently refund the sum of Rs.16 30 000/-(Sixteen Lakhs and thirty thousand only) thus enabling the Petitioner to operate the bank accounts with the third respondent bank

For petitioner ...Mr.P.Srinivas
For respondents ...Mr.V.Haribabu, A.G.P., for respondents 1 and 2

O R D E R

Heard Mr.P.Srinivas, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader for respondents 1 and 2.

2. The petitioner, which is an educational institution run by Dr.B.R.Ambedkar Education Trust, engaged the services of M/s.P.S.K. Engineering Constructions & Co., a contractor, for the purpose of construction. Challenge in this Writ Petition is to an order passed by the first respondent dated 22.12.2014, which is a notice issued to the petitioner's bankers for the recovery of the tax due. The first respondent passed an order of assessment for the year 2013-14 holding that the petitioner ought to have deducted tax @ 2% and refused to accept the contention taken by the petitioner that the contractor had remitted the tax on time, and in evidence of the same, the petitioner produced form “S”, showing that there is no liability. While

confirming the demand of tax, as proposed in the notice dated 7.10.2014, the petitioner was informed that interest would be levied separately under Section 42(3) of the Act.

3. As against the order of assessment, the petitioner preferred a revision before the second respondent, who passed an order on 22.12.2014, insisting upon a pre-deposit. The petitioner challenged the said order by filing Writ Petitions before this Court in W.P.Nos.504 and 505 of 2015, contending that the question of pre-deposit of the disputed tax would arise only if an appeal is filed and not for revision. The petitioner relied on the decision of this Court in the case of Parshavanath Bullion vs. Joint Commissioner [2011(44) VST 102 (MAD)]. Accepting the stand taken by the petitioner, the Writ Petitions were allowed vide order dated 26.2.2015 and the second respondent was directed to dispose of the revision petition on merits. In the meantime, the order of attachment has been passed, attaching the petitioner's Bank account. It is brought to my notice that the entire tax has been withdrawn from the petitioner's Bank account. In these circumstances, the petitioner is before this Court, challenging the proceedings of the first respondent, attaching the petitioner's Bank account and seeks for refund of the said amount. Considering the fact that already the amount has been taken away by the Department, by attaching petitioner's Bank account and taking note of the fact that the revision petition is pending before the second respondent, ends of justice would be met if the second respondent is directed to dispose of the revision within a time frame.

4. Accordingly, the Writ Petition is disposed of by directing the second respondent to consider the petitioner's revision petition filed against the order of assessment dated 10.11.2014, on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order, after affording a personal hearing to the petitioner and perusing the documents placed by the petitioner. It is open to the second respondent to call for details from the Assistant Commissioner, (C.T.) Rasipuram, so as to ascertain as to whether the petitioner's contractors have remitted the entire tax liability.

5. The Writ Petition is disposed of accordingly. No costs. Consequently WMP.Nos.1 & 2 of 2015 are closed.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1 The Assistant Commissioner
(C.T) Ranipet Vellore District.

2 The Joint Commissioner (C.T)
Vellore Division Vellore.

3 The Branch Manager
Indian Bank Thenkadappanthangal Wallaja
Taluk Vellore District.

4 The Assistant Commissioner,
CT, Ranipet.

+1 cc to the Govt.Pleader,sr.34776

+1 cc to Mr.P.Srinivas, Advocate,sr.34427.

rj(co)
krd 23/7