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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.19804 of 2016

N.Mathivanan

... Petitioner

-vs-

1.The Income Tax Officer,
Office of Income Tax Officer,
Ward - 1,
Palani Bye pass Road,
Kottaipatti Post,
Dindigul - 624 002.

2.The District Educational Officer,
District Educational Office,
Palani, Dindigul District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent to pay the tax arrears as per letter dated 12.07.2016 of the 1st respondent through e-TDS which have been deducted from the petitioner and arrears for the Financial year 2013-2014 and enable him to claim the tax relief under section 89(1) of the Income tax Act within a specified time frame to be fixed by this Court.

For Petitioner : M/s.Kanimozhi Mathi

For R - 1 : Mr.R.Krishnamoorthy

For R - 2 : Mr.M.Murugan
Government Advocate

O R D E R

This Writ Petition has been filed, seeking a direction to the second respondent to pay the tax arrears as per the demand made in letter dated 12.07.2016 of the first respondent through e-TDS (which has been deducted from the petitioner's account) and also arrears of tax for the Financial year 2013-2014, so as to enable the petitioner to claim the tax relief under section 89(1) of the Income Tax Act.



2. Heard the learned counsel appearing for the petitioner; the learned counsel for the first respondent and the learned Government Advocate, who takes notice for the second respondent. By consent the writ petition itself is taken up for final disposal at the admission stage.

3. The petitioner is a retired teacher. On 25.05.2015, the second respondent has issued a challan for the deduction of tax amount from the petitioner's pension arrears. Accordingly, deduction has been made to the tune of Rs.66,281/.

3.1. The first respondent thereafter, has sent an intimation raising the demand of Rs.77,537/- for the assessment year 2014-15, asking the petitioner to provide copy of the challan if tax was already paid or the petitioner is expected to appear in person on 01.03.2016 before the Income Tax Officials at Dindigul.

4. Immediately, on the next day, the petitioner has submitted a representation to the second respondent which was followed by the representation dated 01.03.2016 also. After five months of the first communication, a second letter has been sent from the office of the income tax on 12.07.2016 asking the petitioner to provide challan for the payment of income tax or at least to appear before the office on 25.07.2016. The demand of Rs.77,537/- represents the demand of both tax and interest i.e. tax at Rs.66,854/- and the interest at Rs.10,688/-.

Again on 18.07.2016, the petitioner has sent a representation listing out the previous representations and also seeking their advice as to what has to be done. As there was no reply, this Writ Petition has been filed.

5. The communications from the income tax department/first respondent herein dated 22.02.2016 and 12.07.2016 would have definitely caused mental agony to the petitioner. Even though income tax has already been deducted from his salary, only because of non remittance of that amount by the second respondent to the income tax office (first respondent), the petitioner is put to inconvenience and harassment.

6. Under such circumstances, if the amount of income tax already recovered from the petitioner, has been transmitted to the first respondent, the second respondent is directed to intimate the same to the first respondent/income tax office with a proof for remittance; if not transmitted, the same shall be remitted within a period of three days from the date of receipt of copy of the order. The tax demanded by the first respondent, shall be born by the second respondent, as it has been already deducted from the account of the petitioner.



7.The Writ Petition is disposed of with the above direction. No costs.

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/True copy/

Sd/-

Assistant Registrar (CS-I)

Sub Assistant Registrar

To

1.The Income Tax Officer,
Office of Income Tax Officer,
Ward - 1,
Palani Bye pass Road,
Kottaipatti Post,
Dindigul - 624 002.

2.The District Educational Officer,
District Educational Office,
Palani, Dindigul District.

+1 CC to M/s.R,KRISHNAMOORTHY, Advocate, SR No.61339

+1 CC to M/s.M.ATHILAKSHMI, Advocate, SR No.61240

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rj2/mj

SH/SKS-RR:10.11.2016:2P/5C