IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.14712 & 14713 of 2017

M/s.Gharpure Engg. & Constructions (Pvt.) Ltd.,
rep. by its Director, No.34, Bilal Estate,
Ukkadam South, Coimbatore.
... Petitioner in both W.Ps.

Vs.

1.The Deputy Commissioner (CT),
Zone I, Coimbatore.

2.The Assistant Commissioner (CT) (FAC),
Big Bazaar Street Circle, Coimbatore.
... Respondents in both W.Ps.

Prayer in W.P.No.14712 of 2017 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, to direct the second respondent to issue a refund order in Form P for the excess amount of Rs.1,81,31,238/- arrived at as per the order dated 09.09.2016 in TIN No.33811842743/2013-14 along with interest as provided under Section 42(5) of the Tamil Nadu Value Added Tax Act, 2006.

Prayer in W.P.No.14713 of 2017 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, to direct the second respondent to issue a refund order in Form P for the excess amount of Rs.1,31,88,267/- arrived at as per the order dated 09.09.2016 in TIN No.33811842743/2014-15 along with interest as provided under Section 42(5) of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner (in both W.Ps.) : Mr.B.Raveendran
For Respondents (in both W.Ps.) : Mr.S.Kanmani Annamalai, Additional Government Pleader

C O M M O N O R D E R

Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents. With consent on either side, these writ petitions are taken up for final disposal.

2.The petitioner is before this Court being aggrieved by the total inaction on the part of the respondents in honouring the refund of the excess tax paid by the petitioner as admitted by the Assessing Officer in their proceedings dated 09.09.2016 for the assessment years 2013-14 & 2014-15. In the said communication, the respondent has admitted that the petitioner has paid excess tax of Rs.1,81,31,238/- and Rs.1,31,88,267/- respectively for both the assessment years. The amounts are yet to be refunded, despite repeated requests, which has compelled the petitioner to approach this Court.

3.Learned Additional Government Pleader appearing for the respondents would submit that they have to get sanction of the refund amount and it may take some time for the authorities to act. This Court does not accept such stand taken by the Revenue because when the tax dues are payable by assesses, several steps are taken by the Department to recover the tax dues either by attaching the bank account or issuing garnishee or proceeding against the properties owned by the defaulting assesse. Therefore, when it comes to refund of excess tax paid, the same promptness should be shown by the Revenue. Any collection of tax over and above what is liable to be collected is illegal.

4.Therefore, the respondents are directed to take serious note of the observation made in this order and pass appropriate orders on the petitioner's application for refund dated 22.02.2017 for both the assessment years followed by further representation to the first respondent dated 12.05.2017, and appropriate orders should be passed within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this direction is not only to the second respondent, but also to the first respondent as well to whom a representation has been sent on 12.05.2017.

Accordingly, these writ petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Deputy Commissioner (CT),
   Zone I, Coimbatore.

2. The Assistant Commissioner (CT) (FAC),
   Big Bazaar Street Circle, Coimbatore.

+1cc to the Special Government Pleader Sr. 71350

+1cc to Mr.B.Raveendran, Advocate in sr.no.71470(14/11/2017)

W.P.No.14712 & 14713 of 2017

GMI(CO)
VR(06/11/2017)