IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.27857 of 2017

M/s.LE-SHARK GLOBAL LLP,
Rep. By its Partner,
Mr.Anil Laxmichand Shah,
SF No.245/1, Opp. Park School,
Tiruppur - 641 605. ... Petitioner

Vs.

1.The Joint Commissioner (CT),
CT Building, Dr.Radhakrihnan Road,
Coimbatore - 641 018.

2.The Deputy Commissioner (CT),
CT Building, Kongu Nagar,
Tiruppur - 641 605.

3.The Commercial Tax Officer,
Special Circle- II, CT Building,
Kongu Nagar, Tiruppur - 641 605. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ Mandamus to direct the respondents to pay interest, visible and invisible loss amounting to Rs.1,06,32,275/- to the petitioner Firm.

For Petitioner : Mr.M.A.Abdul Wahab
For M/s.K.V.Subramanian Associatez

For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.M.A.Wahab, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondents. With the consent on either side, the Writ Petition is taken up for final disposal.

2.The petitioner seeks for issuance of a writ of mandamus to direct the respondents to pay interest on the visible and invisible loss amounting to Rs.1,06,32,275/-. Though the petitioner's representations were received by the respondents, they were not considered and therefore, the petitioner approached this Court and filed writ petition to direct the respondent to dispose of the representations seeking interest.

3.However, the 3rd respondent did not pass an order on the application, but sent an intimation to the counsel for the petitioner dated 06.10.2016 stating that the petitioner is not entitled for payment of interest. The 3rd respondent ought to have taken up the application as if he is adjudicating the refund claim or processing a return. Unfortunately, the 3rd respondent sent an intimation to the counsel. Therefore, for all practical purposes, the said intimation cannot be treated to be an order.

4.Be that as it may, now the petitioner has approached the 1st respondent, by representation dated 24.07.2017, which is now pending on the file of the 1st respondent. The 3rd respondent has given written instruction dated 20.03.2017 addressed to the Deputy Commissioner (CT), Tirupur with a copy being marked to the 1st respondent, in which, certain reasons have been assigned to state as to why the petitioner's claim is not sustainable. However, since the matter is now pending before the 1st respondent, the 1st respondent should take a decision on the application/representation for payment of interest and pass a speaking order.

5.In the light of the above, there will be a direction to the 1st respondent to consider the petitioner's representation dated 24.07.2017 and pass orders on merits and in accordance with law, after affording an opportunity of personal hearing to the authorised representative of the petitioner. The above direction shall be complied within a period of three weeks from the date of receipt of copy of this order.

6.With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

Sgl

To

1.The Joint Commissioner (CT),
CT Building, Dr.Radhakrihnan Road,
Coimbatore - 641 018.

2.The Deputy Commissioner (CT),
CT Building, Kongu Nagar,
Tiruppur - 641 605.

3.The Commercial Tax Officer,
Special Circle- II, CT Building,
Kongu Nagar, Tiruppur - 641 605.

+1cc to Special Government Pleader(Taxes) in sr.no.82259

W.P.No.27857 of 2017

NR 12/12/2017