IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

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THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.26897 of 2017
&
W.M.P.No.28669 of 2017

P.Ayyamperumal ... Petitioner

Vs.

1. The Deputy Commissioner of Income Tax
Central Processing Centre
Post Bag No.2, Electronic City Post
Bangalore- 560 100

2.Income Tax Officer
Non-Corporate Ward-20(1)(I/C)
Office of the ITO, Non-Corporate Ward-20(5)
Room No.405, Wanaparthy Block, IV Floor
M.G.Road, Nungambakkam
Chennai - 600 034 ...Respondents

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in respect of the order in AACPA3974F/NCW 20(1)/ 2016-17 dated 28.02.2017 issued by the second respondent, quash the same and direct the second respondent to grand refund of Rs.86,710/- with appropriate interest, based on the direction of the first respondent.

For Petitioner : Mr.P.Ayyamperumal
Party-in-person

For Respondent : Mr.Raj Kumar Jhabkh
Standing counsel

O R D E R

Heard Mr.P.Ayyamperumal, petitioner appearing in person and Mr.Raj Kumar Jhabkh, learned standing counsel for the respondents.

2.The petitioner is an IRS Officer, who worked with the Department of Customs and Central Exercise and retired on 30.06.2013, has been compelled to approach this Court challenging proceedings of the second respondent dated 28.01.2017, wherein the petitioner's request for his entitlement for refund of excess tax paid was declined to process and the petitioner was directed to file rectification petition before the Central Processing Centre, Bangalore through e-filing portal. When the case was heard for admission, the Court prima facie found that the action of the respondent was incorrect and passed an order to the following effect on 20.10.2017.:

> "Heard Mr.P.Ayyamperumal - petitioner appearing in person.
>
> 2. The petitioner has challenged a communication issued by the second respondent dated 28.2.2017 stating that rectification order for the assessment year 2010-11 was passed on 08.2.2017 with the NIL demand/ refund. The refund of Rs.86,710/- for the assessment year 2016-17 has been adjusted for the demand for the assessment year 2010-11 and has been taken credit in the assessment year 2016-17. The petitioner was informed that since he filed e-return of income for the assessment year 2016-17, he was requested to file rectification petition before the Central Processing Centre, Bangalore through e-filing portal for the issue of refund of Rs.86,710/- for the assessment year 2016-17.
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> 3. The petitioner, on receiving the impugned communication, addressed the Chief Public Information Officer and Income Tax Officer, Central Processing Centre, Bangalore vide an application dated 20.4.2017, in which, certain queries were sought for with regard to the refund of Rs.86,710/- for the assessment year 2016-17 adjusted towards tax demand for the assessment year 2010-11. While furnishing the reply, it has been stated that it is the jurisdictional Assessing Officer, who has to rectify the demand and issue resultant refund. The copy of the said communication has been marked to the second respondent with the footnote for his appraisal wherein there is a request made to reduce the demand on AO Portal as per CBDT Circular No.8/2015

and to issue resultant refund to the petitioner.

4. The petitioner's case is that in terms of the reply received from the Central Processing Centre, Bangalore dated 18.5.2017, the petitioner is entitled to refund and he cannot be compelled to approach the Central Processing Centre, Bangalore, by filing a rectification petition. Further, it is submitted that the second respondent, being the jurisdictional Assessing Officer and having shown zero (0) demand against the assessment year 2010-11, should not have requested the petitioner to approach the Central Processing Centre, Bangalore. Further, this Court finds that before the adjustment, the assessee was not put on notice and straightaway, the Assessing Officer adjusted the refund for the assessment year 2016-17 for the demand for the assessment year 2010-11.

5. Mr.Rajkumar Jhab2kh, learned Junior Panel Counsel accepts notice for the respondents and seeks time to get instructions.

6. List on 17.11.2017

20.10.2017”

3. Subsequently, the matter was listed on 17.11.2017, but adjourned due to the petitioner not being able to appear before this Court.

4.When the case was heard on 02.01.2018, the learned standing counsel for the Revenue submitted that Department does not deny the petitioner's claim for refund, but respondents are unable to process the refund due to technical defect. To establish the same, a copy of the screen shot was produced along with the counter affidavit filed by the second respondent.

5.I have heard the submissions of the petitioner, appearing in person and the learned standing counsel for the respondents.

6.Taking note of the stand taken by the Revenue, there will be a direction to the first respondent to rectify the technical defect, which has arisen for processing the refund claim of the petitioner within a period of two weeks from the date of receipt of a copy of this order and sent appropriate communication to the second respondent and on receipt of such communication, the second respondent shall effect refund within a period of two weeks thereafter.

The writ petition is disposed of with the above direction.

No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Deputy Commissioner of Income Tax
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Bengalore- 560 100

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+1cc to Mr.A.Ayyamperumal, Advocate, S.R.No.4130
+1cc to Mr.RajkumarJhabak, Advocate, S.R.No.4378

W.P.No.26897 of 2017 &
W.M.P.No.28669 of 2017

GMI(CO)
RRK(07/02/2018)