IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.02.2018
CORAM
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.2642 of 2018
and W.M.P.No.3270/2018

M.Meenatchiammal ..Petitioner

Versus

1. The Commissioner of Municipal Administration,
   Ezhilagam Annexe, VI Floor,
   Chepauk, Chennai-600 005.

2. The Commissioner,
   Arcot Municipality,
   Arcot, Vellore District. .. Respondents

Prayer: The Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the second respondent to forthwith refund the amount of Rs.60,097/- to the petitioner being the 25% of the Service Tax paid by the petitioner in respect of 3 works namely, Item Nos.1,4 and 8 which were awarded by the second respondent pursuant to the public auction-cum-tender issued under Notification dated 29.12.2014 and consequently direct the second respondent to withdraw the notices dated 09.01.2018 issued against the petitioner.

For Petitioner: Mrs.S.Hemalatha
For RR1 : Mr.V.Shanmugasundar
Special Government Pleader

For RR2 : Mr. A.S.Thambuswamy

O R D E R

The prayer of the writ petition is to issue a writ of Mandamus, directing the second respondent to forthwith refund the amount of Rs.60,097/- to the petitioner being 25% of the Sales Tax.

2 Heard Mrs.S.Hemalatha, the learned counsel for the petitioner, Mr.V.Shanmugasundar, the learned Special Government Pleader for the first respondent, and Mr.A.S.Thambuswamy, learned counsel for the second respondent and perused the records.

3 The case of the petitioner is that in the year 2014, the second respondent issued a notification for auction-cum-tender of lease in respect of collecting toll fee. The petitioner participated in the auction and she was declared as successful bidder for the item Nos.1,4,and 8.

4 The petitioner would further state that the second respondent directed the petitioner to pay service tax along with license fee. So, she has approached this Court by filing a writ petition in W.P.No.9542 of 2015 challenging the demand for payment of Service Tax. As per the order made in M.P.No.1 of 2015, the petitioner deposited 25% of Service Tax amount demanded by the second respondent. The petitioner would claim that as per the circular dated 03.06.2017, issued by the Government of India, Ministry of Finance (Department of Revenue) in Notification No.25 of 2012, the petitioner is entitled for exemption for payment of Service Tax. So, the petitioner has made a representation to the second respondent on 27.11.2017 seeking refund of the 25% of amount deposited by her and since no order was passed, the petitioner is before this Court by filing the present writ petition.

5 The learned counsel for the petitioner submitted that the petitioner would be satisfied if the direction is given to the second respondent to consider the representation.

6 In the light of the circular issued by the Government of India stated supra, the learned standing counsel for the second respondent has submitted that the representation of the petitioner would be considered in accordance with law.

7 In the light of the above submission and limited scope of prayer sought for in this writ petition, this Court directs the second respondent to dispose of the petitioner's representation on merits and in accordance with law, after providing an opportunity to all the necessary parties within a period of four weeks from the date of receipt of a copy of this order.

8 With the above direction, this writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rpl

To

1. The Commissioner of Municipal Administration,
   Ezhilagam Annexe, VI Floor,
   Chepauk, Chennai-600 005.

2. The Commissioner,
   Arcot Municipality,
   Arcot, Vellore District.

+1 cc to the Govt Pleader sr 10271
+1 cc to Mr.A.S.Thambusamy Advocate sr 9445
+1 cc to Mr.S.Hemalatha Advocate sr 9500

W.P.No.2642 of 2018

pa(co)
aa01/03/2018