IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.1919 of 2018

and W.M.P.No.2388 of 2018

S.Janakiraman ... 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 Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 2nd respondent to consider the representation of the petitioner dated 27.11.2017 and to forthwith refund the amount of Rs.95,529.00 to the petitioner being the 25% of the Service Tax paid by the petitioner in respect of the work of "Item No.5 namely, collecting toll fee from the Municipal Naalangadi (day time shops) owned by the Municipality" which was 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 notice dated 09.01.2018 issued by the second respondent.

For Petitioner	:	Mrs.S.Hemalatha
For RR1	:	Mr.B.Anand, Government Advocate
For RR2	:	Mr.J.Ramesh Addl. Government Pleader

O R D E R

This writ petition is filed for a direction to the second respondent to consider the representation of the petitioner dated 27.11.2017, seeking for refund of Rs.95,529.00 to the petitioner being 25% of the Service Tax paid by him.

2. Heard, Mrs.S.Hemalatha, learned counsel for the

petitioner, Mr.J.Ramesh, learned Additional Government Pleader for the second respondent and Mr. B.Anand, learned Government Advocate for the first respondent and perused the records.

3. The case of the petitioner is that he is a registered contractor with the respondent department and he was awarded contract in Item No.5 in the auction conducted in the year 2015. It is further case of the petitioner that he was directed to pay Service Tax of Rs.1,16,900/- along with other lease amount. The petitioner challenged the direction of payment of Service Tax in W.P.No.10575 of 2015 and as per the order passed in M.P.No.1 of 2015, the petitioner has remitted 25% of the Service Tax demanded by the second respondent.

4. The learned counsel for the petitioner would further state that as per the circular dated 03.06.2017, issued by the Government of India, Ministry of Finance (Department of Revenue) Notification No.25/2012, the petitioner is entitled for exemption for paying Service Tax. So he submitted a representation dated 27.11.2017 for refund of the Service Tax. Since, no action was taken, the petitioner is before this Court by filing the present writ petition.

5. The learned counsel for the petitioner further submitted that the petitioner would be satisfied, if a direction is issued to the second respondent to consider and dispose of the petitioner's representation.

6. The learned counsel for the second respondent would submit that the representation of the petitioner would be considered in accordance with law.

7. In the light of the above submission of the learned counsel for the second respondent, this Court without going into the merits, directs the second respondent to pass appropriate orders on the representation of the petitioner dated 27.11.2017 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. The petitioner is also directed to produce all the relevant documents to the 2nd respondent to substantiate his claim.

8. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. 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 M/s.S.Hemalatha, Advocate SR.NO. 7221

W.P.No.1919 of 2018

SSI(CO)
VS 26/02/18