BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.5849 of 2018

M.Pawankumar ... Petitioner

Vs.

1. The Commissioner,
   Corporation Main Office,
   S.N.High Road,
   Tirunelveli 1.

2. The Assistant Commissioner (Accounts)
   Corporation Main Office,
   Tirunelveli Municipal Corporation,
   S.N.High Road,
   Tirunelveli 1.

3. The Additional/Joint Commissioner,
   Goods and Service Tax (GST),
   Central GST and Excise Department,
   Tractor Road, N.G.O.Colony,
   Tirunelveli 7.

4. The Superintendent,
   Goods and Service Tax (GST),
   Central GST and Excise Department,
   Tractor Road, N.G.O.Colony,
   Tirunelveli 7. ... Respondents

Petition filed under Article 226 Constitution of India to issue a Writ of Mandamus to direct the respondents herein to consider the Petitioners Representations dated 10.07.2017, 31.08.2017 and 12.03.2018 and pass appropriate orders to refund the Service Tax to the tune of Rs.1,88,250/- (Rupees One Lakh Eighty Eight Thousand Two Hundred and fifty only) to the petitioner within a time stipulated by this Court.

For Petitioner : Mr.V.Meenakshisundaram
For Respondents 1&2 : Mr.Aayiram K.Selvakumar, Additional Government Pleader.

For Respondents 3&4 : Mr.R.Nandakumar, CGSC

ORDER

This writ petition has been filed seeking direction to the respondents to consider the representations of the petitioner dated 10.07.2017, 31.08.2017 and 12.03.2018 and pass appropriate orders to refund the Service Tax to the tune of Rs.1,88,250/- (Rupees One Lakh Eighty Eight Thousand Two Hundred and fifty only) to the petitioner within a time stipulated by this Court.

2.According to the petitioner, the first respondent has granted licence to the petitioner for collection of fees for the toilets at New Bus Stand in Tirunelveli for the period 2016-2019 for which the petitioner has paid licence fees and service tax to the tune of Rs.1,88,250/- to the Corporation. The Corporation has also remitted the same to the respondents 3 and 4. But as per the notification dated 20.06.2012, issued by the Ministry of Finance, Government of India, service tax is exempted from 2012 for the services of pay and use toilet. In the above circumstances, the petitioner approached the first respondent Corporation to refund the service tax already paid by him. As the first respondent Corporation has already remitted the amount, the first respondent Corporation made a recommendation to the respondents 3 and 4 to refund the said amount. Thereafter, the petitioner himself approached the respondents 3 and 4 by way of representation dated 12.03.2018 seeking refund of the said amount. Since no order has been passed, the present writ petition has been filed.

3.Considering the fact that the first respondent Corporation has already remitted the said amount and sent a recommendation to the respondents 3 and 4 to refund the service tax already paid by the petitioner, the respondents 3 and 4 are directed to consider the representation of the petitioner dated 12.03.2018 and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

4.With the above direction, the writ petition is disposed of.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
   Corporation Main Office,
   S.N.High Road, Tirunelveli 1.

2. The Assistant Commissioner (Accounts)
   Corporation Main Office,
   Tirunelveli Municipal Corporation,
   S.N.High Road, Tirunelveli 1.

3. The Additional/Joint Commissioner,
   Goods and Service Tax (GST),
   Central GST and Excise Department,
   Tractor Road, N.G.O.Colony,
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4. The Superintendent,
   Goods and Service Tax (GST),
   Central GST and Excise Department,
   Tractor Road, N.G.O.Colony,
   Tirunelveli 7.

+ 1 CC TO Mr.AAYIRAM K.SELVAKUMAR, ADVOCATE IN SR No. 56657
+ 1 CC TO Mr.D.NALLATHAMBI, ADVOCATE IN SR No. 56718
+ 1 CC TO Mr.R.NANDAKUMAR, ADVOCATE IN SR No. 56558

SMS
TE/SV-MMS/SAR-4 : 10/04/2018 : 3P/8C

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20.03.2018