BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2018

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)Nos.7853 and 7854 of 2018

Tvl.Sri Ramakrishna Agencies,
Represented by its Proprietor S.Ramakrishnan,
No.159 & 160, Chitrakara Street,
Madurai. ... Petitioner in both W.P.s

-Vs-

The Commercial Tax Officer,
Chitrakara Street Assessment Circle,
Madurai-20. ... Respondent in both W.P.s

Common Prayer: Writ Petitions - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondent to give effect to the order of the Appellate Deputy Commissioner (CT)(FAC), Madurai (South), Madurai passed in TNVAT AP No.288/2016 and 290/2016 dated 12.09.2017 and 12.10.2017 relating to the assessment year 2011-12 and 2015-16 and issue consequent refund order and adjust the same towards the petitioner's due for the assessment year 2014-15 respectively.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.A.Muthukaruppan
Additional Government Pleader
(in both W.P.s)

COMMON ORDER

The writ petitioner preferred three appeals against the assessment orders for the years 2011-12, 2014-15 and 2015-16 respectively. The appeals preferred against the assessment orders for the years 2011-12 and 2015-16 were decided in favour of the petitioner. The appeal against the assessment year 2014-15 was dismissed, against which, the petitioner preferred a second appeal and the amount due is Rs.7,80,602/-.

2. The learned counsel appearing for the writ petitioner would contend that by virtue of the order passed in the appeals filed in respect of the assessment years 2011-12 and 2015-16, he is entitled to get refund of the amount deposited by him before the respondent authority. The total amount to be refunded for the above said assessment year is to the tune of Rs.2,71,825/-. Even though the appeals were allowed on 12.09.2017 and 12.10.2017, till date, the

said amount was not refunded.

3. The learned counsel appearing for the writ petitioner would further contend that as per the Act, the amount shall be refunded within 90 days. However, it can be adjusted in payment of the dues to the department also. Now, for the assessment year 2014-2015, the petitioner has to deposit a sum of Rs.7,80,602/-. It is submitted that the amount due to the petitioner from the respondent a sum of Rs.2,71,825/- can be adjusted towards the payment of Rs.7,80,602/- and to that effect, a certificate can be issued to him.

4. The learned Additional Government Pleader appearing for the respondent department would also vouch to the calculation made by the writ petitioner. In fact, he, himself produced a calculation sheet issued by the State Tax Officer, Chitrakara Steet, Madurai, to this effect.

5. In view of the submission made, the following directions are issued to the respondent:

(a) the respondent shall give effect to the order passed in appeals with respect in the assessment years 2011-12 and 2015-16.

(b) the respondent shall issue a certificate to that effect to facilitate the petitioner to take appropriate action to adjust the amount due towards statutory deposit in the pending appeal within a period of two weeks from the date of receipt of a copy of this order.

6. With the above directions, the Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Commercial Tax Officer,
Chitrakara Street Assessment Circle,
Madurai-20.

+ 1 CC TO Mr.A.CHANDRASEKARAN, ADVOCATE IN SR No. 61078
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 61493

SM
TE/KKR/SAR-4 : 07/05/2018 : 2P/4C

Common Order made in
W.P.(MD)Nos.7853 and 7854 of 2018
12.04.2018