BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.21219 of 2018

Tvl.EMC Limited,
rep. by its General Manager (Taxation)
and Power of Attorney holder
S.Sharath Bajaj,
No.3/247, Krishna Nagar,
Kulir Kurinji Valagam,
New Natham Main Road,
Thiruppalai,
Madurai. .. Petitioner

Vs.

The Assistant Commissioner (ST),
Chokkikulam Assessment Circle,
Madurai -20. .. Respondent

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondent herein to issue refund voucher to the petitioner for their excess payment of tax of Rs.1,95,19,221/- as determined by the respondent herein vide his revision order passed in Asst.No.33675004244/2013-14, dated 18.06.2018 for the assessment year 2013-14.

For petitioner : Mr.A.Chandrasekaran

For respondent : Mr.D.Muruganandham,
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner for issuance of a Writ of Mandamus, to direct the respondent herein to issue refund voucher to the petitioner for their excess payment of tax of Rs.1,95,19,221/-, as determined by the respondent herein, vide his revision order passed in Asst.No.33675004244/2013-14, dated 18.06.2018 for the assessment year 2013-14.

2. The petitioner is a civil contractor executing works contract as per the orders issued by various Government Departments, etc. and is a registered dealer under TNVAT Act. The grievance of the petitioner is that though the respondent, after taking into account the petitioner's eligible input tax credit and tax deducted at source (TDS) certificates in Form - T for the period 2013-14, held in the revision order dated 18.06.2018 that there is an excess

payment of tax of Rs.1,95,19,221/- by the petitioner and issued refund order in Form-P for the said excess payment, till date refund voucher has not been issued by the respondent in order to encash the above said excess amount by the petitioner. According to the petitioner, he is not in arrears of any amount to the respondent department and the petitioner is in urgent need of money and therefore, the petitioner has made several representations to the respondent for refund. As there was no response to the same, the petitioner has come up with this writ petition seeking the aforesaid prayer.

3. Heard the learned counsel appearing for both sides and perused the records carefully.

4. Section 42(5) of the Tamil Nadu Value Added Tax Act provides for refund of the excess amount paid by an assessee, after adjustment of arrears of tax, if any, within a period of ninety days from the date of order of assessment or revision of assessment and if the amount refunded after a period of ninety days from the date of the order of the assessment or revision of assessment, the respondent has to refund the excess amount with interest at the rate of 6% per annum. In the revision order, dated 18.06.2018, relating to the assessment year 2013-14, The respondent has admitted the excess payment of tax made by the petitioner to the tune of Rs.1,95,19,221/-, and issued Form- P. Admittedly, the petitioner is also not in arrears of any sum to the respondent department. According to the petitioner, he is in urgent need of money. Hence, this Court is inclined to direct the respondent to refund the excess tax amount paid by the petitioner.

5. In view of the above, this Court directs the respondent to issue refund voucher to the petitioner for the excess payment of tax of Rs.1,95,19,221/- as determined in the revision order passed in Asst.No.33675004244/2013-14, dated 18.06.2018 for the assessment year 2013-14, within a period of eight weeks from the date of receipt of a copy of this order.

6. This Writ Petition stands disposed of accordingly. No cost.

Sd/
Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar(CS-III)

To
The Assistant Commissioner (ST),
Chokkikulam Assessment Circle,
Madurai -20.
+1cc to Mr.A.Chandrasekaran, Advocate, SR.No. 93347
+1cc to M/s.Special Government Pleader,SR.No. 93842

W.P(MD)No.21219 of 2018(1/2)

GCG
KK/PM/SAR-3/18.12.2018/2P-4C