IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 27.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.24739 of 2004

S.Shankar, Managing Partner,
M/s.Precision Controls,
Flat No.20, Sidco Industrial Estate,
Ambattur, Chennai - 98. ...Petitioner

Vs

1. The Union of India
   Rep. by its Secretary,
   Ministry of Finance,
   Department of Economic Affairs,
   New Delhi.

2. The General Manager,
   India Government Mint,
   Hydrabad.

3. The General Manager,
   Indian Government Mint,
   Alipure, Kolkatta - 53.

4. The Assistant Commissioner,
   Commercial Taxes,
   STD CELL IInd building I floor,
   Room No.119,
   No.14, Belia Ghate Road,
   Kolkatta - 15. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent 1 to 4 joinly and severally to repay the amount of Rs.1,49,738/- which was erroneously deducted as works contract tax from the amounts payable to the petitioner and remitted to the fourth respondent by the third respondent along with 18% interest from the date of due till the date of payment.

For Petitioner : Mr.N.Senthil
for Mr.R.Srinivas
For Respondents: Mr.J.Madanagopal Rao, SPC

O R D E R

The limited prayer sought for in the present writ petition is for an issuance of writ of Mandamus, directing the respondents herein to repay a sum of Rs.1,49,738/-, which according to the petitioner was erroneously deducted as 'works contract tax' and remitted to the fourth respondent herein.

2. In this connection, when the petitioner herein had made a request for such a refund, the Government of West Bengal had replied to him stating that the petitioner herein is not a dealer in West Bengal and the current Sales Tax Act does not provide for such refund to dealers, who are not registered in the state of West Bengal. However, the learned counsel for the petitioner has raised certain grounds before this Court challenging such a reasoning given by the Government of West Bengal.

3. In my view, if the petitioner is aggrieved against such a decision, the only option available to him would be to challenge such findings and that seeking for a writ of Mandamus without challenging the reasoning given for such refund, may not be proper.

4. Nevertheless, if the petitioner is of the view that he is still entitled for refund, the appropriate remedy available to him would be to make a representation before the concerned authorities, seeking for such refund.

5. In the light of the above observations, the petitioner is granted liberty to make a fresh representation to the concerned authorities, seeking for such refund and on receipt of the same, the concerned authorities shall consider the same, on its own merits and in accordance with law, as expeditiously as possible.

6. With the above liberty, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

hvk

To
1. The Secretary,
   Union of India,
   Ministry of Finance,
   Department of Economic Affairs,
   New Delhi.

2. The General Manager,
   India Government Mint,
   Hydrabad.

3. The General Manager,
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   Kolkatta – 15.

+1cc to Mr.R.Srinivas, Advocate sr.53347

W.P.No.24739 of 2004

nr 20/08/2019