



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.9241 & 9236 of 2020

W.P. (MD)No.9241 of 2020:-

Preetham Granities
Rep.by its Partner,
Mr.S.B.Rajkumar,
No.13/59, Dhanappa Mudali Street,
Madurai-8.

... Petitioner

Vs.

1.The Assistant Commissioner (CT),
West Tower Street Circle,
C.T.Buildings,
Dr.Thangaraj Salai, Madurai-20.

Now:
The Assistant Commissioner (ST),
Nethaji Salai Circle,
C.T.Buildings, Dr.Thangaraj Salai,
Madurai-20.

2.The Deputy Commissioner (CT),
Madurai East, C.T.Buildings,
Dr.Thangaraj Salai,
Madurai-20.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, to direct the first respondent to pass a revision order immediately by giving effect to the Appellate Tribunal order dated 18.03.2015 in M.T.S.A.No.46 of 2014 and M.T.C.O.P.No.6 of 2014 and M.T.A.No.5 of 2015 and refund the excess amounts, if any, with the appropriate interest as expeditiously.

W.P. (MD)No.9236 of 2020:-

Preetham Granities
Rep.by its Partner,
Mr.S.B.Rajkumar,
No.13/59, Dhanappa Mudali Street,

... Petitioner



Vs.

1.The Assistant Commissioner (CT),
West Tower Street Circle,
C.T.Buildings, Dr.Thangaraj Salai,
Madurai-20.

Now:

The Assistant Commissioner (ST),
Nethaji Salai Circle,
C.T.Buildings, Dr.Thangaraj Salai,
Madurai-20.

2.The Deputy Commissioner (CT),
Madurai East, C.T.Buildings,
Dr.Thangaraj Salai,
Madurai-625020.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, to direct the first respondent to pass a revision order immediately by giving effect to the Appellate Tribunal order dated 18.03.2015 in M.T.A.No.6 of 2015 and refund the excess amounts, if any, with the appropriate interest as expeditiously.

For Petitioner : Mr.K.Soundararajan
(in both W.Ps.)

For Respondents : Mrs.J.Padmavathi Devi,
(in both W.Ps.) Special Government Pleader.

COMMON ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2.The writ petitioner was registered as assessee with the first respondent. The cases on hand pertain to the assessment years 2010-2011 and 2009-2010. Adverse orders had been passed against the petitioner. The petitioner appealed before the Appellate Authority. The appeals were partly remanded, partly dismissed and partly allowed. Aggrieved by the same, the State filed appeals before the Sales Tax Appellate Tribunal. The assessee also independently filed appeals. By order dated 18.03.2015, the appeals filed by both the parties were disposed of.

3.MTCA No.46 of 2016 filed by the State was dismissed. MTCOP No.6 of 2014 and MTA No.5 of 2015 filed by the assessee were allowed. MTA No.6 of 2015 filed by the assessee in respect of the assessment



year 2009-2010 was also allowed. It is seen that the orders passed by the Tribunal have become final.

4.The orders of the Tribunal ought to be given effect to. The learned counsel appearing for the petitioner draws my attention to Section 42(5) of the Tamil Nadu Value Added Tax Act, 2006. The said provision reads as under:-

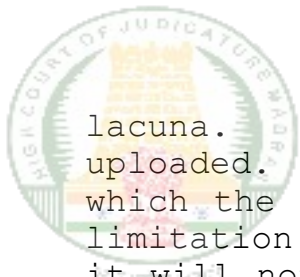
"42(5) Where the tax paid under this Act is found to be in excess on assessment or revision of assessment, or as a result of an order passed in appeal, revision or review, the excess amount shall be refunded to the dealer after adjustment of arrears of tax, if any, due from him. Where the excess amount is not refunded to the dealer within a period of ninety days from the date of the order of assessment or revision of assessment and in the case of order passed in appeal, revision or review within a period of ninety days from the date of order giving effect to such order passed in appeal, revision or review, the Government shall pay by way of interest, where the amount refundable is not less than one hundred rupees, a sum equal to a sum calculated at the rate of half per cent or part thereof of such amount for each month or part thereof after the expiry of the said period of ninety days."

5.The petitioner had been giving representation after representation for giving effect to the order passed by the Tribunal in his favour. Unfortunately, the said request was not at all acted upon. It appears that there was some administrative bifurcation. The petitioner now comes under the assessment circle of the Assistant Commissioner (ST), Nethaji Salai Circle, C.T.Buildings, Dr.Thangaraj Salai, Madurai-20. It is stated that relevant files could not be traced.

6.I am not able to appreciate the stand of the respondents. When the litigant succeeded before the statutory Tribunal and the same has also become final, the benefit must flow to him without any delay.

7.Both the writ petitions are allowed. The respondents are given six weeks' time from the date of receipt of a copy of this order to give effect to the petition mentioned Tribunal orders. Whatever benefit which the statute confers on the petitioner will be disbursed. No costs.

8.In the operative portion, the respondents have been given six weeks' time to comply with the direction. The period will start running from the date of receipt of copy of the order. Following the onset of Covid-19 pandemic, the web copies of the court orders are also treated on par with certified copies. Shri N. Vijayaraghavan, Advocate brought to my notice a serious



lacuna. The web copy does not contain the date on which it was uploaded. In the seals affixed on the certified copies, the date on which the copy is made ready is mentioned. It is from that date, limitation starts running. Unless the web copies contain this data, it will not be possible to compute the limitation period for filing appeals, compliance etc., The learned counsel also suggested that there can be a water mark in the uploaded copy for lending authenticity. He brought to my notice that in Bombay High Court, the uploading and downloading dates are captured in the web copy. I am of the view that this issue merits serious consideration. Registry is directed to place the papers before the Hon'ble Administrative Judge so that the matter may be brought to the kind attention of My Lord The Hon'ble Chief Justice.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

skm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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C.T.Buildings, Dr.Thangaraj Salai,
Madurai-20.

Now:

The Assistant Commissioner (ST),
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2.The Deputy Commissioner (CT),
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Dr.Thangaraj Salai, Madurai-20.



1. The Additional Registrar General
Madurai Bench of Madras High Court,
Madurai.

2. The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.

3. The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K. SOUNDARARAJAN, Advocate (SR-16063[F] dated
07/09/2020)

+1 CC to M/s.GP (SR-16256[F] dated 08/09/2020)

W.P. (MD) Nos. 9241 & 9236 of 2020
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SRK(CO)
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