BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.11.2020**

CORAM:

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.16161 of 2020

(Through Video Conference)

P.Chithambara Vadivoo ... Petitioner

Vs.

1) The District Collector,
Kanyakumari District.

2) The Commissioner of Income Tax,
Madurai.

3) The Income Tax Officer,
Ward-I, Nagercoil,
Kanyakumari District.

4) The Block Development Officer,
Rajakamangalam Panchayat Union,
Rajakamangalam,
Kanyakumari District.

5) The Additional Block Development Officer,
Rajakamangalam Panchayat Union,
Rajakamangalam,
Kanyakumari District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the fourth respondent to submit the TDS returns to the third respondent for the period 2012-13 and 2013-14 and to refund of Rs.12,662/- to the petitioner, within a reasonable time as may be fixed by this Court by considering the petitioner's representation dated 19.06.2020.

For Petitioner : Mr.S.R.Sathan Boopathy

For R-1 : Mr.C.Ramar,
Additional Government Pleader.

For RR 4 & 5 : Mr.G.Arjunan,
Government Advocate

******

O R D E R

Mr.C.Ramar, learned Additional Government Pleader accepts notice for the first respondent, Mr.G.Arjunan, learned Government Advocate accepts notice for the respondent Nos.4 & 5. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

2. This writ petition has been filed for a Mandamus seeking for a direction to the fourth respondent to submit the TDS returns to the third respondent for the period 2012-13 and 2013-14 and to refund Rs.12,662/- to the petitioner, within a reasonable time as may be fixed by this Court by considering the petitioner's representation dated 19.06.2020.

3. It is the case of the petitioner that during the period 2012-13 and 2013-14, he was awarded a Contract by the fourth respondent. According to him, after completion of the Contract, the fourth respondent has paid the contract amount after deducting Rs.12,662/- towards tax. However, according to the petitioner, the fourth respondent has not submitted the e-filing with the Income Tax Department. The petitioner has made a request to the fourth respondent calling upon him to submit his e-filing before the Income Tax Department for the period 2012-13 and 2013-14. But till date, according to the petitioner, the fourth respondent has not submitted the e-filing with the Income Tax Department for the said years.

4. The petitioner has submitted a petition to the first respondent on 21.11.2014 calling upon him to take necessary action against the fourth respondent for not submitting the e-filing before the Income Tax Department for the years 2012-13 and 2013-14 and had also sought for the refund of an amount of Rs.12,662/- deducted by the fourth respondent from the petitioner's bills towards the income tax.

5. It is also the case of the petitioner that a detailed representation was given by him on 19.06.2020 calling upon them to take action against the fourth respondent. According to him, till date, the said representation has not been considered by the respondents. In such circumstances, this writ petition has been filed.

6. The relief sought for by the petitioner is an innocuous relief. No prejudice would be caused to the respondents if the relief sought for by the petitioner is granted by this Court.

7. It is the case of the petitioner that the fourth respondent neither submitted e-filing with the Income Tax Department for the period 2012-13 and 2013-14 nor had the fourth respondent refunded the sum of Rs.12,662/- to the petitioner for the wrongful deduction

of income tax under the bills raised by the petitioner, in respect of the Contract performed by him on behalf of the fourth respondent for the said period. The petitioner lodged a complaint with the first respondent on 24.11.2014 calling upon him to take necessary legal action against the fourth respondent for not submitting the e-filing with the Income Tax Department for the period 2012-13 and 2013-14. The petitioner has also given a representation on 19.06.2020 calling upon the first respondent to take legal action against the fourth respondent for not submitting the e-filing before the Income Tax Department for the years 2012-13 and 2013-14 and in the same representation, he had also sought for refund of Rs.12,662/- being the sum, which according to the petitioner, has been wrongfully deducted from his bills. Admittedly, till date, the said representation has not been considered by the respondents.

8. For the foregoing reasons, this Court directs the first respondent to consider the petitioner's representation, dated 19.06.2020 requesting him to take legal action against the fourth respondent for not e-filing the tax returns for the period 2012-13 and 2013-14 and if it is found that the sum of Rs.12,662/- was wrongfully deducted towards income tax from the petitioner's bills, the first respondent is directed to refund the said amount to the petitioner and pass final orders on merits and in accordance with law within a period of eight(08) weeks from the date of receipt of a copy of this order.

9. With the aforesaid directions, this writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Sts

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:

1) The District Collector,
Kanyakumari District.

2) The Commissioner of Income Tax,
Madurai.

3) The Income Tax Officer,
Ward-I, Nagercoil,
Kanyakumari District.

4) The Block Development Officer,
Rajakamangalam Panchayat Union,
Rajakamangalam,
Kanyakumari District.

5) The Additional Block Development Officer,
Rajakamangalam Panchayat Union,
Rajakamangalam,
Kanyakumari District.

+1 CC to SPL GP (SR-22201[F] dated 19/11/2020)

Order made in
W.P.(MD)No.16161 of 2020
18.11.2020

VB (26.11.2020) 4P 7C