BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2020

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.(MD).No.19037 of 2020

Tvl.Kanagavalli Mattu Theevanam,
Rep. by its Proprietor D.Selvaraj,
No.10/69, Railway Feeder Road,
Kallikudi, Thirumangalam Taluk. .. Petitioner

Vs.

The State Tax Officer,
Thirumangalam Assessment Circle,
Thirumangalam, Madurai District. .. Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the respondent to issue Refund Voucher to enable the petitioner to get refund of the excess paid tax of Rs.11,17,641/- for the assessment year 2013-14 pursuant to his Revised proceedings in TIN 333750411366/2013-14 dated 09.09.2019 and "Notice of Assessment and Refund Order" issued in FORM - P dated 09.09.2019 as per Rule 14(18) of the Tamil Nadu Value Added Tax Rules, 2007 together with interest @ 6% per annum from 09.12.2019 till date of issue of Refund Voucher as per Section 42(5) of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader

ORDER

(This writ petition is heard through video conference)

This writ petition has been filed for a Mandamus seeking for a direction to the respondent to issue Refund Voucher to enable the petitioner to get refund of Rs.11,17,641/- paid by him for the assessment year 2013-2014, pursuant to the refund of assessment proceedings dated 09.09.2019 as per Rule 14 (18) of the Tamil Nadu Value Added Tax Rules 2007, together with interest at the rate of 6% per annum from 09.12.2019, till date of issuance of Refund Voucher as per Section 42 (5) of the Value Added Tax Act, 2006.

2.Heard Mr.A.Chandrasekaran, learned counsel appearing for the petitioner and Mrs.J.Padmavathi Devi, learned Special Government Pleader, who accepts notice on behalf of the respondent.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.It is the case of the petitioner that by order dated 09.09.2019, the respondent has confirmed by giving effect to the order of Appellate Deputy Commissioner (ST) Madurai (South) Madurai, dated 15.04.2019 i.e., a sum of Rs.11,17,641/- payable to the petitioner towards refund for the assessment year 2013-2014. According to the petitioner, despite the confirmation given by the respondent, no Refund Voucher has been issued in his favour to enable him to obtain the refund through the Treasury Department. According to the petitioner, several representations were given by him including the representations dated 19.11.2019, 24.12.2019 and 13.06.2020, requesting the respondent to issue Refund Voucher for a sum of Rs.11,17,641/- being the excess tax paid by him for the assessment year 2013-2014. According to the petitioner, till date, the said representations have not been considered and Refund Voucher has not been issued.

5.It is also the case of the petitioner that even though a statutory appeal has been filed by the respondent as against the order dated 15.04.2019, passed by the Appellate Deputy Commissioner (ST) Madurai (South) Madurai, before the Sales Tax Appellate tribunal (Additional Bench), Madurai, as early as in the year 2019 itself, till date, no stay has been obtained by the respondent and hence, the sum of Rs.11,17,641/- will have to be refunded to the petitioner, which is the excess tax paid by him for the assessment year 2013-2014.

6.The learned Special Government Pleader, appearing for the respondent on instructions would also submitted that till date no stay has been obtained by the respondent as against the order dated 15.04.2019, passed by the Appellate Deputy Commissioner (ST) Madurai (South) Madurai in favour of the petitioner.

7.After giving due consideration to the submissions made by the respective counsels as well as after perusing and examining the documents filed in support of this writ petition, this Court issues a positive direction, in view of the admitted fact that the respondent will have to refund the sum of Rs.11,17,641/- to the petitioner, which is the excess tax paid by him as he has succeeded in the appeal filed by him before the Appellate Deputy Commissioner (ST) Madurai (South) Madurai on 15.04.2019. Admittedly, no Refund Voucher has been issued in favour of the petitioner and admittedly, no stay has been obtained by the respondent, in respect of the order dated 15.04.2019 passed by the Appellate Deputy Commissioner (ST) Madurai (South) Madurai in favour of the petitioner.

8.Accordingly, this Court directs the respondent to issue Refund Voucher in favour of the petitioner for a sum of Rs.11,17,641/- to enable the petitioner to get refund of the excess tax paid by him for the assessment year 2013-14, pursuant to the revised proceedings in TIN 333750411366/2013-14 dated 09.09.2019, within a period of four weeks from the date of receipt of a copy of this order.

9.Accordingly, this writ petition is allowed. No costs.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

/ /2021
Sub Assistant Registrar(CS)

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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

The State Tax Officer,
Thirumangalam Assessment Circle,
Thirumangalam, Madurai District.

+1cc to Mr.A.Chandrasekaran, Advocate Sr.No.26930

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