

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No. 5233 of 2018

and

W.M.P.Nos.6419 to 6422 of 2018 & 20343 of 2020

M/s.The Indian Hume Pipe Co. Ltd.,
Represented by its Deputy General Manager,
New No.381, Old No.173,
Avvai Shanmugam Road,
Gopalapuram, Chennai - 600 086. ... Petitioner

Vs

1. The Additional Chief Secretary,
Commissioner of Commercial Taxes,
Chepauk, Chennai - 600 005.
2. The Assistant Commissioner (CT),
Office of the Commercial Tax Officer,
Royapettah Assessment Circle,
Greenways Road,
Chennai - 600 028.
3. The Executive Engineer,
TWAD Board, Project Division,
CWSS to Pudukottai,
No.5711, Santhanapuram, 2nd Street,
Pudukottai - 622 001.
4. The Executive Engineer,
TWAD Board, Project Division,
CWSS to Pattukottai,
No.6, North Street, Ganapathy Nagar,
M.C.Road, Thanjavur - 613 007.
5. The Executive Engineer,
TWAD Board, RWS Division,
CWSS to Madathukulam,
No.465, 2nd Floor,
Bharathiyar Shopping Complex,
Avinashi Road, Tirupur - 641 602.

6. The Executive Engineer,
TWAD Board, Major Project Division,
CWSS to Palladam,
No.108, NSR Road,
Bakyalakshmi Complex, Saibaba Colony,
Coimbatore - 641 011.
7. The Executive Engineer,
TWAD Board,
Project Division,
CWSS to Aruppukkottai & CWSS to Kayathar,
No.22, A.S.S.S Soundarapandian Road,
Virudhunagar - 626 001.
8. The Executive Engineer,
TWAD Board, Project Division,
CWSS to 7 TP Rajapalayam,
No.81-A, Vasantham Nagar,
North Malayadipatti,
Rajapalayam - 626 17.
9. The Executive Engineer,
TWAD Board, RWS Division,
CWSS to Tambaram,
No.16, Sengauneerodai Street,
Near Sankara Madam,
Kanchipuram - 631 502.
10. The Executive Engineer,
TWAD Board, Urban Division,
(UGSS to Cuddalore),
No.12, Subbrayalu Nagar,
5th Cross Road,
Cuddalore - 607 002.
11. The Executive Engineer,
TWAD Board, Urban Division,
CWSS to Vendasendhur,
No.6/35, Round Road,
Opp. NaiduKalyanaMahal,
Dindigul - 624 005.
12. The Executive Engineer,
TWAD Board, Urban Division,
Integrated Office Complex,
First Floor, Seevalaperi Road,
Shanthi Nagar, Palaiyamkottai,
Tirunelveli - 627 002.

13. The Executive Engineer,
TWAD Board, Maintenance Division,
Integrated Office Complex,
First Floor, Seevalaperi Road,
Shanthi Nagar, Palaiyamkottai,
Tirunelveli - 627 002.
14. The Executive Engineer,
TWAD Board, RWS Division,
CWSS to Villukuri,
No.22, Cave Street,
Nagercoil - 629 001.
15. The Chief Engineer,
TWAD Board, Western Region,
No.30, Bharathi Park Road,
Siruvani Nagar,
Coimbatore - 641 043.
16. The Chief Engineer,
TWAD Board, Southern Region,
1/1, Sambakulam, Ganesh Nagar,
Opp.Mattuthavani Bus Stand,
Melur Road, Madurai - 625 007.
17. The Chief Engineer,
TWAD Board, Northern Region,
No.8, 1st East Main Road,
Gandhi Nagar, Vellore - 632 006.
18. The Chief Engineer,
TWAD Board, Eastern Region,
No.37, 1st Floor, Medical College Road,
Easwari Nagar, Thanjavur - 613 004.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, call for the proceedings of the 1st respondent in RC No.954/A3/2017/Taxation Cell and quash the clarification dt. Nil.01.2018 issued therein in so far the clarification to query no.2 mentioned therein and further direct the respondents 3 to 14 not to deduct Tax at Source in respect of payments being made by them to the petitioner for works contract executed by the petitioner prior to 01.07.2017 and for which payments are being made after 01.07.2017.

For Petitioner : Mr.R.L.Ramani SC
for Mr.B.Raveendran
For R1 & R2 : Mr.R.Swarnavel
Government Advocate

For R3 to R18 : Ms.S.Thamizharasi

ORDER

Though this case was argued on several occasions, there was no representation on behalf of the learned counsel for the TWAD Board. Today when the case is called, Ms.S.Thamizharasi, learned counsel on behalf of the TWAD Board is present.

2. This writ petition is being disposed of in the light of the memo filed by the Commercial Tax Department, which is reproduced in this order.

"5) It is submitted if TWAD Board remit the taxes deducted at source by way of cheque or demand draft to the 2nd Respondent, the said sum on realization would be credited to the account of the Petitioner and adjusted towards any liabilities. On such adjustment, if there is excess sum remaining the same shall be refunded subject to the Petitioners being entitled to the same in accordance with law."

3. Accordingly, this Writ Petition stands disposed by directing the 3rd to 18th respondents (TWAD Board) to pay the amount to the petitioner which was purportedly deducted towards TDS for the works contract rendered by the petitioner to these respondents. This order has been made in the light of the memo filed by the Commercial Tax Department as no useful purpose will be served by directing the 3rd to 18th respondents to remit the amount to the Commercial Tax Department and thereafter to refund the amount to the petitioner. Any tax payable by the petitioner may be collected from the petitioner by issuing notice to the petitioner.

4. The 3rd to 18th respondents are directed to pay the amount deducted by them towards TDS of the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

5. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

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TWAD Board, Eastern Region,
No.37, 1st Floor, Medical College Road,
Easwari Nagar, Thanjavur - 613 004.

+1cc to Mr.B.Raveendran, Advocate, S.R.No.21711
+1cc to M/s.S.Thamizharasi, Advocate, S.R.No.21319
+1cc to Spl Government Pleader(Taxes), S.R.No.22008

W.P.No. 5233 of 2018
and

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PCH(CO)
CB(21/05/2021)



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