BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :**24.06.2021**

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.8535 of 2021

(Through Video Conference)

N.Mathivanan ... Petitioner

Vs.

1.The Income Tax Officer,
Ward-1, Office of the Income Tax,
Dindigul - 624 002.

2.The Assistant Commissioner of Income Tax,
Centralized Processing Centre,
Post Bag No.2, Electronic City Post Office,
Bangalore - 560100. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to process the petitioner's claim under refund of tax amount of Rs.60,870/-(Rupees Sixty Thousand Eight Hundred and Seventy Only) as per Section 89(1) of the Income Tax Act.

For Petitioner : Ms.Kanimozhi Mathi
For Respondents : Mrs.S.Srimathy,

O R D E R

This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the respondents to process the petitioner's claim of refund of tax amount of Rs.60,870/-(Rupees Sixty Thousand Eight Hundred and Seventy Only) as per Section 89(1) of the Income Tax Act.

2. According to the petitioner, he was employed as a Physical Education Training Teacher with Manimekalai Elango Higher Secondary School, Palani and retired from service on 31.08.2006 and now, he is receiving his pension. While the matter stood thus, in the financial year 2013 - 2014, the petitioner received pension income of Rs.1,89,086/- and arrear of Rs.5,10,419/- totalling a sum of Rs.6,99,505/-. For the said amount, tax was deducted at the source for a sum of Rs.66,281/- through E-TDS by the District Educational Officer, Palani. The balance arrear amount of Rs.4,44,138/- was credited into the petitioner's bank account by way of ECS on 06.02.2014. Hence, in the assessment year 2014-2015, he filed his return of income as on 07.11.2015 with the claim of tax relief under

Section 89(1) of the Income Tax Act, along with submitting form 10E claiming income tax refund for a sum of Rs.60,870/-. However, the petitioner received an intimation from the second respondent on 20.12.2015 under Section 143(1) of the Act, demanding a sum of Rs.77,537/- which included the tax amount of Rs.66,281 that was already deducted through E-TDS by the District Educational Officer, Palani and a sum of Rs.10,688/- towards interest liability. However, the second respondent did not consider the deduction made at the source through E-TDS by the District Educational Officer, Palani and demanded the petitioner to pay the tax amount along with interest. Hence, the petitioner approached this Court by filing W.P (MD)No.19804 of 2016 and as per the orders passed by this Court dated 18.10.2016, the first respondent issued a letter dated 28.11.2016 stating that based on the letter from the District Educational Officer, Palani about the E-TDS, rectification order has been passed reducing the demand to Nil after giving credit to TDS.

3. The grievance of the petitioner is that at the time of submitting the income tax return for the financial year 2013-2014, in the assessment year 2014-2015, the petitioner is entitled to the refund of Rs.60,870/- as per Section 89(1) of the Income Tax Act. In this regard, he submitted representations on 01.03.2016, 07.11.2019 and 17.12.2019 to the respondents. The representations are said to be still pending. Hence, this writ petition.

4.The learned counsel for the petitioner would state that it would suffice if a direction is given to dispose of the representation of the petitioner.

5. The learned Standing Counsel for the respondents 1 and 2 would state that the representation of the petitioner would be considered within a reasonable time.

6. Considering the limited scope of the prayer sought for in this writ petition, without going into the merits of the case projected by the petitioner either in his representation or in this Writ Petition, the respondents are directed to consider the representation of the petitioner dated 17.12.2019, on merits and in accordance with law and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. Such exercise shall be done after giving due opportunity to the petitioner.

7.With the above direction, the writ petition is disposed of. No Costs.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

<u>Note</u>: 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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+1 CC to M/s.S.SRIMATHY, Advocate (SR-20256[F] dated 25/06/2021)

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KB(01.07.2021) 3P 4C