BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.06.2021
CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.10640 of 2021

M/s.V N S Constructions,
Represented by its Proprietor G.Vetrivel,
No.101A, Manickapuram Middle Street,
Melapudur, Trichy. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Palakkarai I Assessment Circle,
Trichy. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to consider the representation, dated 10.04.2021 and give effect to the appeal order and issue refund voucher with interest within stipulated period as may be fixed by this Court.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.P.Thilak Kumar
Govt.Advocate

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, directing the respondent to consider the representation of the petitioner, dated 10.04.2021 and give effect to the appeal order and issue refund voucher with interest.

2. The case of the petitioner is that the petitioner is a works contractor and was an assessee under the file of the Assistant Commissioner (ST), Palakkarai II Assessment Circle, Trichy, holding TIN No.33133542169, under the erstwhile Tamilnadu Value Added Tax, 2006. For the assessment year 2014-15, the petitioner was deemed to be assessed under Section 22(2) of the TNVAT Act, under self assessment basis. Subsequently, based on scrutiny of the return and the defects notified, the Assistant Commissioner (ST), Palakkarai II Assessment Circle, Trichy, had passed a revised order in TIN No.33133542169/2014-15, dated 30.11.2016. As against the order dated 20.11.2016, the petitioner had filed an appeal in VAT AP 77/2017, before the Appellate Deputy Commissioner (ST), Trichy and the same was allowed in favour of the petitioner.

3. The learned counsel appearing for the petitioner would submit that on receiving the appeal order, the petitioner had

approached the Assistant Commissioner (ST), Palakkarai II Assessment Circle, Trichy, in person and explained the fact that since the appeal was allowed in his favour, the appeal order may be given effect and the excess amount may be refunded to him immediately and he has also given a representation, dated 10.04.2021 to that effect and the same has been found in the typed set of papers along with acknowledgement. The respondent, being a statutory Authority, is expected to discharge the statutory functions in accordance with Section 42(5) of the TNVAT Act. Since the respondent did not discharge his duty, the petitioner is before this Court with the aforesaid prayer.

4. The learned Government Advocate appearing for the respondents would submit that the petitioner's representation dated 10.04.2021 will be considered within the time frame to be stipulated by this Court.

5. I have heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. The respondent, being a statutory authority, is expected to discharge statutory functions in accordance with Section 42(5) of the TNVAT Act. It appears that the petitioner has approached the respondent in person and requested to consider the representation, dated 10.04.2021, for giving effect to the appeal order and issue refund voucher with interest, but the same has not yet been considered.

7. Considering the submissions made by the learned counsel appearing for the petitioner as well as the respondent it would be appropriate to direct the respondent to dispose of the representation of the petitioner, dated 10.04.2021.

8. Accordingly, without adverting to the merits of the case, the respondent is directed to dispose of the representation of the petitioner, dated 10.04.2021, on merits, and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

Note:(i) 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 Assistant Commissioner (ST),
Palakkarai I Assessment Circle,
Trichy.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-20510 [F] dated 29/06/2021)

+1 CC to M/s.SPL GP (SR-20571[F] dated 29/06/2021)

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AS (07.07.2021) 3P 4C