BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.5980 of 2020

Tvl. KRS Constructions,
Represented by its Partner,
S.K.Vengateshwaran,
10 A, 1st Street Extension,
State Bank Colony, Melagaram,
Tenkasi ... Petitioner

Vs.

1.The Commercial Tax Officer,
West Veli Street Circle,
Madurai.

2.The Deputy Chief Engineers,
Construction III, Southern Railway,
Madurai.

3.The State Tax Officer,
Works Contract,
Kollam. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st Respondent to transfer the sum of Rs.3,74,489/-, deducted at source by the 2nd Respondent from the Petitioner and wrongly paid to the 1st Respondent to the 3rd Respondent or refund the same to the 2nd Respondent.

For Petitioner	: Mr.A.Chandrasekaran
For R1	: Mr.P.Subbaraj Special Government Pleader
For R2	: No Appearance
For R3	: Mr.E.K.Kumaresan

ORDER

This writ petition is filed praying for a writ of Mandamus directing the 1st Respondent to transfer the sum of Rs.3,74,489/- (Rupees Three Lakhs Seventy Four Thousand Four Hundred and Eighty Nine only) deducted at source by the 2nd Respondent from the Petitioner and wrongly paid to the 1st Respondent to the 3rd Respondent or refund the same to the 2nd Respondent.

2. At the outset, it must be clarified that the prayer insofar as the Mandamus sought for directing the 1st Respondent to transfer the TDS deducted and paid by the 2nd Respondent to the 3rd Respondent may not be sustainable.

3. The Petitioner is a works Contractor carrying out the Railway projects in Tamil Nadu and Kerala registered under Tamil Nadu Value Added Tax Act, 2006, Kerala Value Added Tax, 2003 and Central Sales Tax Act, 1956 and an assessee on the files of Rajapalayam Assessment Circle. It is submitted that the Petitioner had entered into a contract with the 2nd Respondent for gauge conversion work between Sengottai to Punalur. The 2nd

Respondent in terms of Section 13 of the Tamil Nadu Value Added Tax Act, deducted tax at the appropriate rate and remitted the tax to the 1st Respondent.

4. It is submitted by the learned counsel for the Petitioner that the work contract was executed in Kerala and therefore, there is no liability. Thus, the question of deduction may not arise, the deduction and remittance of TDS by the 2nd Respondent is erroneous and they are eligible for refund.

5. It is submitted by the learned counsel for the 3rd Respondent that the amounts so deducted and remitted by the 2nd Respondent would be credited to the Petitioner's account. It is submitted that the 2nd Respondent on making the deposit of TDS in terms of Section 13 (2) of the Tamil Nadu Value Added Tax Act is under obligation to issue a certificate in terms of Section 13 (3) of the Tamil Nadu Value Added Tax Act for each deduction separately and send a copy of the certificate of deduction to the Assessing Authority having jurisdiction over the said dealer i.e., the Petitioner along with prescribed documents.

6. It is submitted by the learned Special Government Pleader for the 1st Respondent that the tax deducted would be transferred to the credit of the office of Assessing Authority, Rajapalayam within a period of six weeks from the date of receipt of copy of this order.

7. Recording the same, the Respondents are directed to transfer the deducted tax amount to the office of Assessing Authority, Rajapalayam within a period of six weeks from the date of receipt of copy of this order. It is thereafter open to the Petitioner to approach the Assessing Officer, Rajapalayam to claim refund who shall deal with such request in accordance with law. The writ petition stands disposed of. No costs.

29.09.2022

Index : Yes / No
Internet : Yes/ No
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To

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MOHAMMED SHAFFIQ, J.

sn

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