IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.2334 of 2022
and
W.M.P.No.2496 of 2022

M/s.Southern Explosives Company P. Ltd.,
(Represented by its Director),
No.161, Greams Road,
Chennai – 600 006. .. Petitioner
(PAN : AABCS0204J)

Vs.

1.The Principal Commissioner of Income Tax
Chennai – 3, Room No.410, 4th Floor,
Main Building, Income Tax Department,
121, Nungambakkam High Road,
Chennai – 600 034.

2.The Income Tax Officer,
Company Ward – 6(3), Chennai
Income Tax Department,
121, Nungambakkam High Road,
Chennai – 600 034.

3.Central Processing Centre,
Income Tax Department,
Bangalore – 560 500.

4.National Faceless Appeal Centre,
C-Block, 4th Floor, S.P.M. Civic Centre,
New Delhi – 110 001. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the Writ Petitioner Company / Asssessee on the file of the 1st respondent to quash the impugned order dated 11.01.2022 in DIN and Letter No.ITBA/COM/F/17/2021-22/1038646163(1) in so far as the implied rejection of the refund request pleaded and consequently direct the respondents to refund forthwith the excessively recovered amount over and above the 20% as prescribed.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mrs.S.Premalatha
Junior Standing Counsel
for Mr.R.S.Balaji
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned proceedings of the 1st respondent dated 11.01.2022 in DIN and Letter No.ITBA/COM/F/17/2021-22/1038646163(1), to quash the same and to direct the respondents to refund the excessively recovered amount over and above 20%.

2.The petitioner has suffered an adverse assessment order on 26.03.2015. Aggrieved by the same, the petitioner preferred an appeal on 21.04.2015 before the Commissioner of Income Tax (Appeals), Chennai.

The said appeal was numbered as ITA No.184/CIT(A)-15/2015-16.

3.It appears that the petitioner was heard and thereafter the Commissioner of Appeals has called for a remand report on several days. However, no order has been passed in ITA.No.184/CIT(A)-15/2015-16.

4.Meanwhile, the case appears to have been transferred to the National Faceless Appeal Centre, New Delhi and it is yet to be re-numbered and taken up for hearing by the aforesaid Centre. Meanwhile, the petitioner was entitled to refund of a sum of Rs.28,78,728/- for various assessment years, which has been adjusted on the following dates:

Sl.No	Total Tax	Date of deposit	Challan Serial Number
1.	371970.00	25-Jun-2021	04676
2.	23440.00	18-Jun-2021	05151
3.	674820.00	04-Apr-2021	00870
4.	812530.00	11-May-2020	01526
5.	61380.00	07-Dec-2019	28321
6.	682080.00	24-Sep-2019	03198
7.	252060.00	25-Mar-2019	20800
8.	1000.00	27-Apr-2015	31662

5.The petitioner submits that maximum amount that can be demanded pending appeal before the Appellate Commissioner is only 20% as per the prevailing circular which would amount to Rs.9,73,728/-. However, vide impugned communication dated 11.01.2022, the respondents have stated as follows:

> "I am directed to communicate that the Principal Commissioner of Income Tax-3, Chennai has considered your petition for grant of stay of collection of demand since CPC has collected more than 20% of demand by way of refund adjustment. Accordingly, the PCIT-3, Chennai has stayed further collection till the disposal of Appeal by the CIT(A)."

6.In view of the above stand of the respondents in the counter, the respondents are directed to refund the excess amount of Rs.19,04,552/- (Rs.28,78,280/- - Rs.9,73,728/-) to the petitioner.

7.This amount shall be refunded to the petitioner by the respondents together with applicable rate of interest, within a period of six weeks from the date of receipt of a copy of this order.

8.The Writ Petition stands disposed of with the above observations.

Consequently, the connected Miscellaneous Petition is closed. No costs.

01.08.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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C.SARAVANAN, J.

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