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W.P. No.16482 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.16482 of 2020 and
WMP.No.20459 of 2020

H.Firoz Khan

... Petitioner

Vs.

1.The Commissioner of Municipal Administration
11th Floor, Urban Administrative Campus,
Santhome High Road, MRC Nagar,
Chennai - 600 028.

2.The Commissioner,
Ranipet Municipality,
No.1, Railwaystation Road,
Ranipet, Vellore District - 632 401.

3.The Assistant Commissioner of Central Excise,
Ranipet Division,
No.161/1, SIPCOT Industrial Complex,
Nethaji Nagar, Ranipet,
Vellore 632 403.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus, directing the third respondent to remit back the Service Tax paid by the second respondent and consequently direct the second respondent to consider



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the representation of the petitioner dated 16.12.2019 and to forthwith refund the amount of Rs.8,99,979.00 to the petitioner being the Service Tax paid by the petitioner in respect of the Weekly Shandy Lease which was awarded by the second respondent pursuant to the public auction-cum-tender.

For Petitioner : Ms.S.Hemalatha
For Respondents : Mr.Murali (for R1 and R2)
Government Advocate

Mr.Siddharth (for R3)
Junior Standing Counsel

ORDER

Mr.Siddharth, learned Junior Standing Counsel who appears for R3 would accede to the position that the petitioner is in fact entitled to the refund of service tax. However, a technical issue that is raised is that it is the Commissioner, Ranipet Municipality who has collected the service tax from the petitioner and has paid over the same to the Assistant Commissioner of Central Excise, Ranipet. Hence, he would state that while R3 is willing to pay the same back, the payment will be effected only to R2. Let such payment be made within a period of two (2) weeks from today, upon receipt of which R2 will pay the same back to the petitioner within a period of two (2) weeks from such receipt.



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2.To be noted that Mr.Murali, learned Government Advocate who appears for R1 and R2, drawing attention to communication in Na.Ka.No.882/2019/A3 dated 15.10.2019 would fairly point out that the only reason why the amount has not been paid to the petitioner thus far is that the amount has been paid to R3 and there is no other disentitlement as against the petitioner. Direction is as follows:

The amount of Rs.8,99,979/- shall be paid by R3 to R2 within a period of four (4) weeks from today for onward transmission by R2 to the petitioner within a period of two (2) weeks from receipt thereof.

3.This writ petition is ordered in the aforesaid terms. No costs. Connected miscellaneous petition is closed.

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vs

Index: Yes/No

Speaking order

Neutral citation:Yes

To

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Dr.ANITA SUMANTH, J.

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