IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2025

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THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.No.43727 of 2025

M/s.Nithya Murthy General Contractors,
Represented by its Partner
Mr.G.V.Nithyanandham
No.17/B, Pillayar Koil Street,
Thiruvanmiyur, Chennai – 600 041. ... Petitioner

-Vs-

1.The Income Tax Officer,
Non-Corporate Ward 15(1)
2nd Floor, Wanaparthy Block,
121, Nungambakkam High Road,
Nungambakkam-600 034.

2. The Income Tax Officer,
Non-Corporate Ward 15(3),
Income Tax Office, Wanaparthy Block,
2nd Floor, Room No.206,
Nungambakkam High Road, Chennai-600 034.

3. National Faceless Assessment Centre,
Income Tax Department,
Jawahar Lal Nehru Stadium,
New Delhi – 110 003. ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, directing the 1st respondent to issue the refund amount of Rs.6,72,654/- due and payable to the petitioner for the AY 2014-15 in furtherance of the order issued by the first respondent, bearing DIN:ITBA/GEA/M/254/2023-24/1055243565(1), dated 08.08.2023, along with applicable interest under Section 244A of the Income Tax Act, 1961, after deducting an amount of Rs.81,847/- already credited to the account of the petitioner, for AY 2014-15, for PAN:AADFN6831B.

For Petitioner : M/s.Suhrith Parthasarathy

For Respondents : Mrs.S.Premalatha,
Senior Standing Counsel

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O R D E R

This writ petition is filed for a Mandamus directing the 1st Respondent to refund for a sum of Rs.6,72,654/- due and payable to the petitioner pursuant to the Giving Effect Order dated 08.08.2023 passed by the 1st Respondent / Income Tax Officer in furtherance with the order dated 08.12.2022 of the Income Tax Appellate Tribunal, whereby the appeal filed against the order dated 31.07.2019 of CIT(A), Chennai by the Department was dismissed.

2. Pursuant to the aforesaid Final Giving Effect Order dated 08.08.2023 passed by the 1st Respondent, the petitioner appears to have sent a Representation dated 27.12.2023, wherein the petitioner called upon the respondent to refund the amount of Rs.6,72,654/- after deducting the amount due for the Assessment Years 2008-2009 and 2010-2011.

3. In the aforesaid letter, dated 27.12.2023 the petitioner also informed the respondent that the penalty order belatedly passed under Section 271(1)(c) of the Income Tax Act,1961 dated 04.03.2022 may be furnished to the petitioner, as the petitioner intends to file an appeal against the said order.

4. The petitioner's communication dated 27.12.2023 was also preceded by an earlier communication dated 10.11.2023 by the petitioner for the Assessment Year 2014-2015 wherein reference was made to the penalty order passed under Section 271(1)(c) of the Income Tax Act, 1961.

5. However, in Paragraph 11 of the Counter Affidavit filed in support of the Respondent's case in writ petition, it has been stated as under:

11. I submit with respect to Para 12: The CPC sent a letter/notice to the assessee vide document No.CPC/1415/G8i/ITBA#1000000000001842237 on 10.11.2023 demand outstanding for the A.Ys.2008-09, 2010-11 and 2014-15 of Rs.16,376/- Rs.54,500/- and Rs.3,97,653/- respectively. The assessee furnished its reply on 27.12.2023 in response to the above notice. (Furnish copy of the Reply) The assessee requested that the earlier demands of the A.Ys.2008-09 and 2010-11 to be adjusted against the refund of Rs.6,72,654/- and remit the balance refund to the assessee. The assessee's letter dated 27.12.2023 brought to the attention of the assessing office penalty u/s 271(1)(c) was levied and demand raised of Rs.3,97,653/- and also pointed out the penalty order was not served to the assessee and not available on the not generated. It is seen from ITBA/records penalty order u/s 271(1)(c) was not generated. However, the computation sheet and demand was communicated to the assessee. The above said demands would have been noticed by the assessee through their e-filing login account.

12. I submit with respect to para 13: Refund of Rs.81,847/- was credited to the assessee's Bank account on 28.05.2025 after adjustment of demand along with interest u/s 220 for the A.Y 2010-11 of Rs.1,31,890/- (Rs.54,500/- + Rs.77,390/0) and A.Y 2014-15 of Rs.4,58,917/- (Rs.3,85,653/- + Rs.73,264/-). There is no pending refunds.

6. Thus, it is clear that no penalty order under Section 271(1)(c) of the Act has been passed against the petitioner for the relevant Assessment Year as on date.

7. Consequently, the calculation of deduction of a sum of Rs.3,97,653/- cannot be countenanced. The said amount would be payable by the petitioner only if a penalty order is passed under Section 271(1)(c) of the Act. Therefore, the petitioner is entitled to a refund of the amount due, after adjustment of the tax liability for the Assessment Years 2008-2009 and 2010-2011.

7. Accordingly, there shall be a direction to the respondent to refund the balance amount in excess to the petitioner after carrying out the aforesaid adjustments for the relevant assessment years, if no other liability subsists. It is open to the respondent to proceed further with penalty proceedings under Section 271(1)(c) of the Act, if the same is otherwise permissible under the statutory provisions.

8. In view of the above, the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

9. The Writ Petition is disposed of with the above direction. No costs. Connected W.M.Ps are closed.

08.12.2025

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Neutral Citation : Yes/No

To

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