BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A.(MD) No.913 of 2020
and
C.M.P(MD) No.4988 of 2020

1. The Assistant Commissioner(CT),
Karur (West) Circle,
Karur – 639 207.

2. The Deputy Commissioner (CT),
Karur, Karur – 639 207. ... Appellant/ Respondents

-vs-

1.Madhucon Projects Limited,
Rep. by GVLN Sastry,
Manager (P & A),
KM 338, NH-7,
Velanchettiyur,
Karur – 639 207,
Now at KM 216, NH 45,
Madurai Tuticorin Road,

Senthilkkari, Ettayapuram, Tuticorin.

2.The Commercial Tax Officer,
Ettayapuram,
Tuticorin District.
Pin : 628 902. ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 20.07.2020, passed in W.P.(MD) No. 25394 of 2018, on the file of this Court.

For Appellants	:	Mr.R.Suresh Kumar Additional Government Pleader
For R1	:	Mr.Joseph Prabhakar
For R2	:	No appearance

JUDGMENT

[Judgment of the Court was made by C.V.KARTHIKEYAN, J.]

The first respondent/Assistant Commissioner (CT), Karur (West) Circle, Karur in W.P.(MD) No. 25394 of 2018, is the appellant herein.

2. The writ appeal had been filed questioning the order dated 20.07.2020 of the learned Single Judge.

3. The first respondent in the writ appeal had filed the writ petition in the nature of a mandamus seeking a direction against the respondents therein, namely, the Assistant Commissioner (CT), Karur (West) Circle, Karur; the Deputy Commissioner (CT), Karur; and the Commercial Tax Officer, Ettayapuram, Tuticorin District to refund a sum of Rs.1,14,89,741/- to the writ petitioner along with the interest consequent to an order dated 12.10.2011 passed by the appellant herein/Assistant Commissioner (CT), Karur (West) Circle, Karur.

4. The writ petitioner was a contractor and was originally an assessee in Karur circle. The issue relates to the assessment year 2008 – 2009. In respect to that particular assessment year, the VAT assessment order had been passed by the first respondent in the writ petition/appellant herein on 12.10.2011 and after giving the particular details, it had also been pointed out in Form-P that the amount of arrears as on the assessment year 2008 – 2009 was Nil. The total turnover was determined as Rs.1,50,12,08,828/- and it was found that there was an excess tax paid of Rs.11489741/- and therefore the refund notice in Form – P was issued. Since that direction to refund the excess tax paid was not complied

with, the writ petition was filed in the nature of a mandamus seeking a direction to refund the said amount. The learned Single Judge by the order in the writ petition had directed refund of the said amount. It is to be noted that if the refund is not made within the period stipulated, then the respondent/appellant herein would also be liable to refund with interest at the rate of 6% per annum. It would therefore only be prudent that the amount is refunded without incurring the interest liability also.

5. The appellant herein who had passed the very order in Form – P which had been affirmed in the writ petition has now filed the writ appeal. The learned Additional Government Pleader appearing for the appellants urged that this Court should remand the matter back to the appellant herein. We are not able to understand that particular argument advanced. It was the Assistant Commissioner (CT), Karur (West) Circle, Karur, who had passed the order dated 12.10.2011 with respect to the assessment year 2008 – 2009 very specifically indicating that the excess tax has to be refunded to the writ petitioner after noticing that there was no tax arrears payable for that particular assessment year.

6. It has been contended on behalf of the appellants that the records will have to be obtained as the petitioner had initially registered himself as Chengalpattu District and later had moved over to Karur and also had business in Ettayapuram, Thoothukudi District.

7. In the counter-affidavit filed to the writ petition, the first respondent/appellant herein had committed himself to refund the amount and had stated as follows in paragraph No.10 of the counter:

> "It is also submitted that the 1st respondent has asked refund and arrears details from the 3rd respondent office. Regarding the refund, the processes are going on the department. The 1st respondent is taking all steps for further proceedings for refund to the petitioner. But the some more time is requirement of the Department for such proper enquiry and verification of records and assessment file of the petitioner."

8. On behalf of the appellants, attention has also been drawn to the information received for subsequent assessment years and not for the assessment

year 2008 – 2009. Even against the order passed by the first respondent/appellant herein, an appeal would lie before the Appellate Deputy Commissioner (CT) at Tiruchirappalli to be filed within thirty days. Naturally, the writ petitioner who had benefit of refund of tax had no necessary to file an appeal. .

9. The learned Sing Judge had examined the issues in entirety and had correctly noted that there is no other option once Form – P is issued but, to refund the tax paid in excess by the writ petitioner for the said assessment year 2008 – 2009. We find no reason to interfere with the order of the learned Single Judge and accordingly, the writ appeal stands dismissed. Consequently, there shall be a direction to the appellants that the refund should be effected within a period of twelve (12) weeks from the date of receipt of a copy of this judgment together with applicable interest. No costs. Consequently, the connected miscellaneous petition is closed.

[C.V.K., J.] [R.V., J.]

03.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To:
1. The Assistant Commissioner(CT),
Karur (West) Circle,
Karur – 639 207.

2. The Deputy Commissioner (CT),
Karur, Karur – 639 207.

C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

PKN

W.A.(MD) No.913 of 2020

03.09.2025