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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)No.22451 of 2025

Bhabi Traders,
Represented by its Proprietor,
T.Prem,
Kattathurai Post,
Kanyakumari District. ... Petitioner

Vs.

The State Tax Officer, (FAC),
Thuckalay,
at Kattathurai Post 629 158,
Kanyakumari District. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent to consider the representation of the petitioner dated 27-04-2024 and direct the respondent to refund to the petitioner the sum of Rs.10,00,000/- (Rs.Ten lakhs only) with interest, within such time as may be directed by this Court.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.J.K.Jayaselan
Government Advocate

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ORDER

This writ petition has been filed for a Mandamus to direct the respondent to consider the representation of the petitioner dated 27-04-2024 and direct the respondent to refund a sum of Rs.10,00,000/- (Rs.Ten lakhs only) with interest, to the petitioner.

2. The petitioner has suffered an assessment order dated 06.10.2015 for the assessment year 2010-2011, whereby the total turnover of the petitioner was determined as Rs.1,08,05,760/-, and the tax payable by the petitioner was determined at Rs.13,50,720/-. Over and above the aforesaid amount, the petitioner was also liable to pay penalty under Section 27(3) of the Tamil Nadu Valud Added Tax, equivalent to 150% of the tax for a sum of Rs.20,26,080/-. This was subject matter of challenge before this Court in W.P(D)No.22174 of 2016. This Court disposed of the writ petition on 21.11.2016 with the following observations.

> "8.*Recording the assurance made by the petitioner that he has already padi a sum of Rs.10 lakhs, the impugned order, dated 06.10.2015, is set aside and the respondent is directed to provide sufficient materials to the petitioner as well as opportunity of hearing, which includes the hearing with reference to the documents, which are ordered to be furnished to the petitioner and to take further decision, in accordance with law, within a period of four weeks."*

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3. Pursuant to the same, the petitioner has paid a sum of Rs.1,35,072/- being 10% of the disputed tax, by way of abundant caution, along with representation dated 21.12.2016 vide Bankers Cheque drawn on Indian Overseas Bank, Swamiarmadam dated 21.12.2016.

4. In the Meanwhile, Samadhana Scheme was announced by the Government, pursuant to which, the petitioner opted to settle the dispute with the Department for the assessment year 2010-2011 and additionally paid a sum of Rs.2,73,772/-.

5. The petitioner's case is that the petitioner is entitled for refund of the amount paid prior to the order passed on 14.02.2015 and further amount paid pursuant to the order in W.P(MD)No.22174 of 2016 dated 21.11.2016.

6. The learned Government Advocate for the respondents submits that as per the records there are no amounts due or refundable to the petitioner.

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7. It is the further case of the respondents that no re-assessment order was passed pursuant to the order passed by this Court on 21.11.2016 in W.P(MD)No.22174 of 2016.

8. In my view, the petitioner *prima facie* appears to be entitled to a refund of the amount paid in excess earlier on 14.02.2015. The petitioner appears to have settle the dispute under the Samadhan Scheme and subsequently, in respect of which, the petitioner has been issued a certificate of settlement in Form V under Rule 5(1) of the Tamil Nadu Taxes (Settlement of Arrears) Act, 2023 read with Settlement Rules. The petitioner has also submitted a representation on 27.04.2024, which has not evoked any response.

9. Under these circumstances, there shall be a direction to the respondents to consider the petitioner's representation dated 27.04.2024 and pass appropriate orders for refund for the amount purportedly paid by the petitioner on 14.02.2015 for a sum of Rs.10,00,000/-. This exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order.

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10. The writ petition stands disposed of. No costs.

18.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

The State Tax Officer, (FAC),
Thuckalay,
at Kattathurai Post 629 158,
Kanyakumari District.

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C.SARAVANAN, J.

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