IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

WP(C).No. 22116 of 2015 (L)

PETITIONER :

M/S.ANNAI INFRA DEVELOPERS LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
S.ASHOK KUMAR - 7, IV FLOOR, SDS ENCLAVE,
2/5, PERUNDURAI ROAD, ERODE 638011

BY ADVS.SRI.N.MANU THAMPI
SRI.J.V.NIRANJAN
SRI.P.T.GEOTOM

RESPONDENTS :
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1. THE COMMISSIONER OF COMMERCIAL TAXES,
KILLIPPALAM, KARAMANA P.O., THIRUVNANTHAPURAM 695002

2. THE CHIEF ENGINEER
KERALA STATE RURAL ROADS DEVELOPMENT AGENCY,
LOCAL SELF GOVERNMENT (RD) DEPARTMENT,
GOVERNMENT OF KERALA, III FLOOR, CSI BUILDING
PULIMOODU JN, THIRUVANANTHAPURAM 1

BY SENIOR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 22116 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: **TRUE COPY OF THE CLASS I CONTRACTOR CERTIFICATE ISSUED BY THE PUBLIC WORKS DEPARTMENT.**

P2: **TRUE COPY OF THE TENDER ISSUED BY THE CHIEF ENGINEER, KERALA STATE RURAL ROADS DEVELOPMENT AGENCY (KSSRRDA)**

P3: **TRUE COPY OF THE VAT REGISTRATION ISSUED BY THE TAMIL NADU GOVERNMENT DT. 2/1/2009.**

P4: **TRUE COPY OF THE TRUE COPY OF THE AGREEMENT DATED 10TH DECEMBER 2014.**

P5: **TRUE COPY OF THE APPLICATION FOR CLARIFICATION FILED BY THE PETITIONER COMPANY DATED 27TH DECEMBER 2014.**

P6: **TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER FOR RA BILLS WITHOUT EDUCATION OF TAX UNDER KVAT DATED 05.03.2015**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 22116 of 2015

Dated this the 3rd day of August, 2015

J U D G M E N T

Petitioner Company is a registered Class I contractor with the Public Works Department as well as the Highways Department. They got registration under Kerala VAT Act for the purpose of execution of the work awarded to them by the State of Kerala. According to the petitioner, they purchase the raw materials from various suppliers from Tamil Nadu on payment of CST. It is stated that the movement of goods took place between Kerala and Tamil Nadu based on the purchase of materials from Tamil Nadu. Therefore they requested the 2nd respondent not to deduct VAT while making payment to them. Therefore they sought a clarification from the authority in terms of Section 94 of the Kerala VAT Act, reads as follows:

> *"We are therefore of the view that the materials moved for the purpose of using in the execution of the works contract from the State of Tamil Nadu to Kerala is liable to be taxed under CST Act and not subject to Kerala VAT in terms of the judgment of the Kerala High Court in the case of FI Desighn & Development Private Limited Vs. State of Kerala."*

2. The learned Government Pleader on instructions submits that, clarification application has been received and not disposed so far.

3. In view of the facts and circumstances as above, this Court directed the authority to consider the clarification application within a period of two months from the date of receipt of a copy of this judgment.

This writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn