IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/11/2015

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.36162 of 2002

National Buildings Construction Corporation Ltd
(A Government of India undertaking)
rep. By its Dep.Project Manager
First Main Road
MEPZ Complex
Tambaram
Chennai 600 045. ... Petitioner

Vs

1. The Special Commissioner and Commissioner for Commercial Taxes
   Chepauk
   Chennai 600 005.

2. The Executive Engineer
   W.B.P.Maintenance Division
   Vellinkurichi Main Road
   Peelamedu
   Coimbatore 641 004. ... Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to quash the impugned order dated 20/8/2002 Letter No.F.NBCC/DO/PB/2002 issued by the second respondent.

For petitioner ... M/s.Anand Dasgupta

For respondents ... Mr.R.Rajeswaran
Spl.G.P for R.1

Ms.S.Thamizharasi for R.2

O R D E R

Heard Mr.Anand Dasgupta, learned counsel appearing for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader for the first respondent and Ms.S.Thamizharasi for the second respondent.

2. With the consent of the learned counsel appearing on either side, this writ petition is taken up for final disposal.

3. This writ petition has been filed praying to quash the impugned order passed by the second respondent in Letter No.F.NBCC/DO/PB/2002 dated 20/8/2002.

4. As rightly pointed out by the learned counsel appearing for the second respondent, the impugned order is only a letter and an internal communication, calling upon the concerned authority to produce necessary proof for the tax paid.

5. Though interim order was granted initially, at the time when the writ petition was entertained, by an order dated 11/8/2003, interim order was vacated and it is beneficial to refer to the said order and the same is extracted hereunder:-

> "Aggrieved by the letter dated 20/8/2002 informing the Superintending Engineer, TWAD Board, Coimbatore Circle that the amount due to the petitioner be settled by deducting the taxes and duties as per condition of the agreement since the firm has not produced the proof for the taxes paid and also they are not co-operating with TWAD Board in getting legal opinion through Commercial Tax Department, the petitioner has filed the above writ petition. Inasmuch as, it is the duty of the petitioner to furnish the details regarding payment of sales tax to the concerned department, in the absence of such details, I am of the view that TWAD Board is fully justified in issuing notice to their Officer insisting production of proof or tax paid. It is made clear that if the petitioner is having required material, viz., payment of tax or no due certificate from Commercial Tax Department, it is very well open to them to place the same before the second respondent.
>
> In such circumstances, I am of the view that there is no need to continue the interim order any longer.
>
> Accordingly, interim stay granted on 20/9/2002 is vacated."

6. In the light of the above order, challenge to the impugned communication has virtually become infructuous, since

this Court has already given liberty to the petitioner, while vacating the interim order to produce the required material, viz., payment of tax or no due certificate from Commercial Tax Department.

7. Accordingly, this writ petition is disposed of as infructuous. No costs. It is open to the petitioner to produce the proof of payment of tax or no due certificate before the second respondent.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

mvs.

To

1. The Special Commissioner and
Commissioner for Commercial Taxes
Chepauk
Chennai 600 005.

2. The Executive Engineer
W.B.P.Maintenance Division
Velliankurichi Main Road
Peelamedu
Coimbatore 641 004.

+1 cc to M/s.S.Thamizharasi, Advocate, sr.62765

W.P.No.36162 of 2002

sai co
kra 25.11.2015