

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5293 OF 2015
M/s P. P. Patel Vs. General Manager C. M. C. & Ano.

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Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

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None for the petitioner.

**CORAM: SMT. VASANTI A. NAIK &
A. S. CHANDURKAR JJ.**

DATED: 29th FEBRUARY, 2016.

The learned counsel for the petitioner was heard on 25.02.2016 for some time after which the matter was adjourned for obtaining further instructions as to whether the petitioner intended to approach the civil Court for seeking the reliefs sought in the present writ petition. However, today though the writ petition was called out twice there is no appearance on behalf of the petitioner.

The petitioner seeks a declaration that it is entitled for refund of the excess service tax paid by it to the respondents pursuant to the tender notice dated 25.08.2008. According to the petitioner in the tender notice dated 25.08.2008 it was stated that the bidders should quote the rates inclusive of all taxes and dues including service tax. According to the petitioner in the rates quoted by it, the service tax was calculated at 12.36 % but the same was subsequently reduced to 10.30% and therefore the petitioner was entitled for refund of the excess amount of service tax.

Perusal of the documents on record does not indicate that it was a condition in the tender notice that in case the service tax would be reduced, a bidder would be entitled to receive back the difference in the amount of service tax. On the contrary it has been clearly stated that, the rates are to be quoted inclusive of all taxes and dues including service tax. In absence of any legal right with the petitioner to seek refund of the service tax as reduced, the relief sought in the present writ petition cannot be granted. The writ petition therefore stands dismissed with no order as to costs.

JUDGE

JUDGE

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