IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2017

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THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

Contempt Petition Nos.2107 to 2112 of 2017

Coimbatore Road Contractors
Welfare Association, rep. by its
Secretary, R.Selvaraj,
Registration No.242/2010,
No.8/18, Aalayam Dynasty,
Sundaresan Layout,
Trichy Road, Coimbatore-18. ... Petitioner in
Cont.P.Nos.2107 & 2110/2017

Coimbatore Corporation Contractors
Welfare Association, rep by its
Treasurer, A.Ammasaiappan,
Registration No.81/2012,
A7-Sundaresa Iyer Layout,
Trichy Road, Coimbatore-641 018. ... Petitioner in Cont.P.Nos.
2108, 2109, 2111 & 2112/2017

Vs.

Dr.C.Chandramouli, I.A.S.,
The Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk, Chennai-5. ... Respondent
in all Cont.Petitions

PETITIONS filed under Section 11 of Contempt of Courts Act praying to punish the respondent for the wilful disobedience of the orders of this Court passed in W.P.Nos.24842, 24851, 24852, 26222, 24853 & 24854 of 2017, respectively, dated 05.10.2017.

For Petitioner : Mr.V.Elangovan

For Respondent : Mrs.Narmadha Sampath,
Special Government Pleader

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COMMON ORDER

The petitioners are Contractors Welfare Association, who came before this Court by filing a batch of writ petitions for issuance of Writ of Mandamus for a direction upon the Secretary to Government, Highways and Minor ports Department Secretariat, Chennai to consider their representations dated 05.07.2017, 10.07.2017, 11.07.2017 28.08.2017 and 11.09.2017 by making the payment of 12% GST in addition to the value of the work done for all the contracts.

2.The Court noted that the appropriate authority, who has to answer the claim of the petitioner/Association was the Commissioner of Commercial Taxes, but, he was not impleaded as a respondent. Therefore, a direction was issued to implead such authorities and accordingly W.M.P.No.26675 of 2017 etc., were filed to implead the Secretary to Government and the Commissioner of Commercial Taxes as respondents 7 & 8 in the writ petitions. Thereafter, the Government Advocate, who accepted notice on behalf of the newly impleaded Secretary to Government and Commissioner of Commercial Taxes Department informed that the Government was in the process of discussing as to how the modality to be worked out.

3.The Court found that since the representations were pending before the authority, it would be appropriate to the respondent to respond them and give a reply. The Court ordered that the appropriate person, who would be in a position to reply is that the Commissioner of Commercial Taxes, because all the other authorities are Department of Highways and National Highways, etc., who will be not in a position to specifically address the issue pointed out by the petitioners.

4.Learned Government Advocate placed before this Court a copy of the Government Order in G.O.Ms.No.264, Finance (Salaries) Department, dated 15.09.2007, wherein the Government issued certain guidelines in matters pertaining to the bills presented by contractors.

5.Thus, the Court directed the Commissioner of Commercial Taxes to consider the representation given by the petitioner/Association and pass orders on merits and in accordance with law within a period of four weeks after affording an opportunity of personal hearing to the authorised representative of the petitioner/Association.

6.Learned Special Government Pleader, who accepted notice on behalf of the respondent/contemnor would contend that the respondent has absolutely nothing to do in the matter and it is for the Central Government to have a say in the matter, however, the court took note of the G.O.Ms.No.264 dated 15.09.2017, and gave liberty to the Commissioner of Commercial Taxes to pass an order on merits and in accordance with law.

7.If according to the Commissioner, he had nothing to do the matter, nothing prevented him to contend so. In fact, that was an observation made by the Court in more than two places in the order. Though the Court would be fully justified in initiating action for contempt, considering the sensitivity of the matter and the members of the petitioner/Association, who are contractors, are put to hardship on account of the nebulous state of affairs, this Court is inclined to give one more opportunity to the respondent to consider the representations given by the petitioner/Association and pass orders on merits and in accordance with law as ordered in the writ petitions within a period of two weeks from the date of receipt of a copy of this order. It is made clear that before orders are passed, the authorised representative of the petitioner/Association be heard in person by the Commissioner.

Accordingly, these contempt petitions are disposed of.

08.12.2017

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Index : Yes/No

Note: Issue order copy on 12.12.2017

To

Dr.C.Chandramouli, I.A.S.,
The Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk, Chennai-5.

T.S.SIVAGNANAM,J

abr

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