

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.21272 of 2018
and
WMP.Nos.24940 & 24941 of 2018

M/s.Priyanka Agencies,
Represented by its Proprietor, P.Rajkumar,
No.3, Tiruthani Road,
Jothi Nagar,
Arakkonam - 631 003
Vellore District. ... Petitioner

Vs.

1. Union of India,
Represented by its Secretary to Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The Chairman,
Railway Board,
Rail Bhawan, New Delhi.
3. The General Manager,
Office of the General Manager,
Southern Railway,
Park Town, Chennai - 600 003.
4. The Senior Divisional Engineer (Co-ordination),
Office of Divisional Railway Manager,
Works Branch,
Southern Railway,
Park Town, Chennai - 600 003.
5. The Principal Financial Advisor & Chief Accounts Officer,
C/o. Office of the General Manager,
Southern Railway,
Park Town,
Chennai - 600 003.
6. The Principal Chief Commissioner of CGST and Central Excise,
Tamil Nadu & Pondicherry Zone,
No. 121, Nungambakkam High Road,
Nungambakkam,

Chennai - 600 034.

7. The State of Tamil Nadu
Represented by its Secretary to Government of Tamil Nadu,
Department of Commercial Tax and Registration,
Fort St. George, Chennai.
8. The Commissioner of State Goods and Service Tax,
Ezhilagam,
Chepauk, Chennai - 600 005.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the 5th respondent with reference to the calculations of the Top Sheet regarding the petitioner's bills dated 23.03.2018 sequel to the instructions of the 2nd respondent bearing No.2016/CE-1/CT/12/GST/ Pt.1 dated 29.06.2017 and quash the same.

For Petitioner : Mr.Velayutham Pichaiya
For Respondents : Mr.P.T.Ramkumar
Standing Counsel for R1 to R5
Ms.Aparna Nandakumar,
Standing Counsel for R6
Mrs. G.Dhana Madhri,
Government Advocate (T), for R7 & R8.

O R D E R

Mr.P.T.Ramkumar, learned Standing Counsel takes notice for the respondents 1 to 5, Ms.Aparna Nandakumar, learned Standing Counsel takes notice for the sixth respondent and Mrs.G.Dhana Madhi, learned Government Advocate (Tax) takes notice for the respondents 7 & 8.

2. Heard the learned counsel for the petitioner, the learned standing counsels for the respondents 1 to 5, and 6 and the learned Government Advocate (Tax) for the respondents 7 & 8.

3. The petitioner seeks to challenge the calculation of the Top Sheet regarding the petitioner's bill dated 23.03.2018. According to the petitioner, the Top Sheet prepared is not reflecting in the actual tax paid by the petitioner under the GST and Chapter Heading No. 995421 referred to in the Top Sheet pertains to the General Construction Services and therefore, the petitioner will not fall under such services. By contending so, the petitioner made a representation dated 14.06.2018 before the fifth respondent seeking clarification, more particularly, with regard to the relevant Chapter Heading applicable to the case of

the petitioner. It is stated that the said representation is not considered so far.

4. However, the learned counsel for the petitioner raised very many grounds touching upon the merits of such clarification, as sought for by the petitioner.

5. On the other hand, the learned standing counsel for the respondents 1 to 5 submitted that in view of the letter of acceptance dated 31.07.2017, executed by the petitioner, they are bound to pay the GST as applicable from 01.07.2017 as per the provisions of the GST Act 2017. It is further stated that in case, if he seeks any clarification with regard to the rate of tax payable under the GST, they have to address their representation only to the concerned Official who prepared the Top Sheet viz., the Senior Divisional Engineer, West, Chennai Division. Therefore, it is contended that it is open to the petitioner to make such representation before the concerned Official and if any such representation is made, the same will be addressed accordingly.

6. Considering the above stated facts and circumstances, more particularly, by considering the fact that the petitioner has raised an issue with regard to the Chapter Heading in consonance with the work executed by him, certainly, it is for the authorities concerned to clarify the same as, at this stage, this Court, is not inclined to go into such issue and express any view. Therefore, without expressing any view on the merits of the contentions raised by this Court, this writ petition is disposed of, by giving liberty to the petitioner to make a fresh representation before the Senior Divisional Engineer, Chennai Division (West), within a period of 7 days from the date of receipt of a copy of this order. On receipt of such representation, the said official viz., the Senior Divisional Engineer, Chennai Division (West), shall consider the same and pass appropriate orders/communication on merits within a period of two weeks, thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.

2.The Chairman,
Railway Board,
Rail Bhawan, New Delhi.

3.The General Manager,
Office of the General Manager,
Southern Railway,
Park Town, Chennai - 600 003.

4.The Senior Divisional Engineer (Co-ordination),
Office of Divisional Railway Manager,
Works Branch,
Southern Railway,
Park Town, Chennai - 600 003.

5.The Principal Financial Advisor & Chief Accounts Officer,
C/o. Office of the General Manager,
Southern Railway,
Park Town,
Chennai - 600 003.

6.The Principal Chief Commissioner of CGST and Central Excise,
Tamil Nadu & Pondicherry Zone,
No. 121, Nungambakkam High Road,
Nungambakkam,
Chennai - 600 034.

7.The State of Tamil Nadu
Represented by its Secretary to Government of Tamil Nadu,
Department of Commercial Tax and Registration,
Fort St. George, Chennai.

8.The Commissioner of State Goods and Service Tax,
Ezhilagam,
Chepauk, Chennai - 600 005.

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.57409

+2cc to Mr.Velayutham Pichaiya, Advocate, S.R.No.57948

+1cc to Mr.Aparna Nandakumar, Advocate, S.R.No.57397

+1cc to the Spl Government Pleader, S.R.No.57324

WP.No.21272 of 2018

GSP (05/09/2018)