IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.03.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.11574 of 2016

Aswini Traders,
Rep. by its Proprietor – M.Saravanan,
No.77/1912, Sathiyamoorthy Nagar,
Vyasarpadi,
Chennai – 600 039. .. Petitioner

Vs.

1.MSTC Limited
Rep. by its Deputy Manager,
2nd Floor, Leelavathi Building,
No.69, Armenian Street,
Chennai – 600 001.

2.The Senior Accounts Officer,
Office of the General Manager,
Postal Accounts & Finance,
Tamil Nadu Postal Circle,
Ethiraj Salai, Egmore,
Chennai – 600 008. .. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to refund the petitioner deposited amount after deducting the cost for the materials taken by the petitioner.

For Petitioner : Mr.S.Sivakumar

For Respondents: Mr.K.Srinivasamurthy
Central Government Standing Counsel

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O R D E R

The prayer sought for in this writ petition is a direction to the second respondent to refund the amount deposited by the petitioner, after deducting the cost for the materials taken by the petitioner.

2. The case of the petitioner is that the petitioner is the successful bidder in the E-auction conducted by the first respondent to dispose the old Mo Records and old e-Mo

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records lying with the second respondent office. The petitioner had paid a sum of Rs.22,99,165/- towards entire auction amount. When the petitioner approached the second respondent, they informed that the vehicle has to be weighed at a particular weigh bridge. The petitioner had taken delivery of about 6 tons of materials after weighing the vehicle at the Everest weigh bridge as recommended by the second respondent. Thereafter, on 11.01.2016, the petitioner weighed the empty vehicle at the Everest Weigh Bridge and went to the office of the second respondent. When the petitioner's workers loaded the materials, the second respondent's officials directed the petitioner to weigh the vehicle at a different weigh bridge. Hence, the petitioner made a representation on 12.01.2016 requesting to fix any one weigh bridge to weight the vehicle, but the second respondent rejected the request. Further, the second respondent failed to co-operate with the petitioner to clear the waste materials. Hence, the petitioner submitted another representation on 19.02.2016 to the first respondent to return the deposited amount after deducting the amount for the materials taken from the second respondent. The first respondent forwarded the same to the second respondent for necessary action. As there was no response, the first respondent sent another communication on 05.03.2016 to the second respondent to take a decision at the earliest. But till now, the second respondent has not refunded the deposited amount. Hence, the petitioner is before this Court.

3. Heard the learned counsel appearing on both sides.

4. After some deliberations, the learned counsel for the petitioner produced the letter dated 04.03.2019 given to the second respondent stating that they are ready to dispose the balance materials from the second respondent's office. In response to the same, the second respondent has issued a letter dated 05.03.2019, in No.2278/Admn/EA-VIII/Old Record/Court Case, on the following terms:

> 1. You are permitted to take delivery of approximately 74 metric tons of MO/e-MO old records of this office being the balance quantity to be delivered against e-auction No.MSTC/SRO/GM (PAF)/2/EGMORE/15-16/12441 dated 30.11.2015.
>
> 2. M/s. Metro Weigh Bridge near Ice House/Triplicane is where the tonnage of both the empty and the loaded vehicles are to be weighed.
>
> 3. A team of officials headed by Shri.N.Srinivasan and S.Ramachandran AAOs of this office shall supervise the delivery.
>
> 4. The delivery shall be completed precisely

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on delivery of 74 metric tons for which payments were received; for any excess tonnage found on weighing of loaded vehicle you are liable to pay @ Rs.27,100/- being the rate per MT at which your bid was finalized by the MSTC.

5. The delivery process shall be strictly carried out between 8.30 A.M. to 6.30 P.M. that is with 2 hours concession.

6. No representative, or load man found in inebriated condition shall be permitted to enter the office premises.

5. The same is recorded and the Writ Petition is disposed of in the above terms. No costs.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

rsi

To
1.The Deputy Manager,
MSTC Limited,
2nd Floor, Leelavathi Building,
No.69, Armenian Street,
Chennai - 600 001.
2.The Senior Accounts Officer,
Office of the General Manager,
Postal Accounts & Finance,
Tamil Nadu Postal Circle,
Ethiraj Salai, Egmore,
Chennai - 600 008.

+1cc to Mr. S.Sivakumar, Advocate SR.No. 21072

+1cc to Mr. K.Srinivasamurthy,Advocate SR.No.20738
(11/03/2019)

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A.SK(08/03/2019)

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