IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.5188 OF 2021
AND
WMP.NOS.5767, 5771, 5773 & 5775 OF 2021

The Neyveli NLC Contractors Welfare Association,
(Reg.No.79/2020),
Repesented by its President,
Mr.C.Subramanian ... Petitioner

Vs.

1. The Chief Commissioner of GST and
   Central Excise,
   Tamil Nadu and Puducherry Zone.

2. The Commissioner/GST,
   No.155, Moolathoppu Road,
   Sriramapuram, Trichy - 620006.

3. The Chairman Cum Managing Director,
   M/s.Neyveli Lignite Corporation Limited,
   Corporate Office, Block -1,
   Neyveli - 607 801.

4. The Director-Finance,
   M/s.Neyveli Lignite Corporation Limited,
   Corporate Office, Block -1,
   Neyveli - 607 801.

5. The General Manager finance,
   Department of Tax,
   M/s.Neyveli Lignite Corporation Limited,
   Corporate Office, Block -1,
   Neyveli - 607 801. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for records and quash the impugned Circular dated 06.02.2021 made in

Circular No.2021/F & AB/Tax/GST/006 issued by the 5th respondent and consequently restraining the respondents 2 to 5 from in any manner taking any action against the members/contractors of the petitioner associationon on the ground of alleged non-payment/ non-filing of returns under GST Act, 2017.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.S.Gurumoorthy,
Senior Panel Counsel for R1 & R2
Mr.N.Nithiyanandan R3 to R5

O R D E R

Mr.S.Gurumoorthy, learned Senior Panel Counsel accepts notice for R1 and R2 and Mr.N.Nithiyanandan, learned counsel accepts notice for R3 to R5, and both learned counsel are armed with instructions to proceed in the matter. By consent expressed by both parties, this Writ Petition is disposed finally even at the stage of admission.

2. What is challenged is a communication dated 06.02.2021, whereunder the Neyveli Lignite Corporation (NLC) calls upon its Units/Officers to recover the amounts of tax collected by its vendors (members of the petitioner association), but not deposited.

3. In terms of the contract between the members of the petitioner association, who are vendors of NLC and NLC, the consideration paid by the petitioners is inclusive of GST and liability in this regard is to be discharged by members of the petitioner association. Also, admittedly, the GST deducted has not been remitted in many cases, either fully or partly.

4. As a consequence, NLC appears to have suffered a reversal of the Input Tax Credit claimed by it and the demand raised has been remitted by it. The impugned communication, in my view, only seeks to enforce the contract qua NLC and its vendors.

5. This is not a matter which warrants interference or attention of this Court as the liability of the deductors to remit the tax deducted by it to the coffers of the Department, is absolute. In fact, failure to do so would render them liable to interest and penal action. The members of the petitoner association are at liberty to approach NLC seeking its indulgence for additional time to remit tax, not/short deducted and it is for NLC to consider the same.

6. Barring the aforesaid observation, nothing further survives in this writ petition, and the same is dismissed. Connected Miscellaneous Petitions are also dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sl/rkp

To

1. The Chief Commissioner of GST and
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   Tamil Nadu and Puducherry Zone.

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