



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.39883 of 2015

M/s.Heart Care Co.

Represented by its Marketing Manager,
S.Manimozhi,
Old No.25/1, New No.32, 4th Main Raod,
Kasthuribai Nagar, Adyar,
Chennai - 600 020.

...Petitioner

Vs

1. The Tamilnadu Medical Services Corporation Ltd.,
Represented by the General Manager,
417, Pantheon Road, IInd Floor,
Egmore, Chennai - 600 008.

2. The Director of Medical Education,
Directorate of Medical Education,
Govt. Kilpauk Medical College Campus,
Kilpauk, Chennai - 600 010.

3. The Medical Superintendent / DEAN,
Govt. Rajaji Hospital,
Madurai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to consider and pass orders on the lawyer's notice, dated 07.11.2011 and representation of the petitioner, dated 07.07.2015 forthwith for making the payments due to the petitioner.



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For Petitioner : Mr.K.P.Gopalakrishnan for
Mr.P.Anbarasan

For Respondents

For R1 : Mr.Shivakumar
For R2 and R3 : Mr.G.Krishnaraja,
Government Counsel

O R D E R

Heard all the parties and perused the materials placed before this court.

2.According to the petitioner, they are a well reputed firm dealing with surgical machineries and accessories. Pursuant to the tender issued by the first respondent dated 21.10.2004 for supply of cardio thoracic machineries, the petitioner participated in the same and was declared as successful bidder. Consequently, the Government Rajaji Hospital, Madurai purchased certain medical equipments from them and the first respondent gave the annual maintenance contract to maintain the equipments properly effective from 01.07.2008 to 30.06.2009. After the warranty period was over, the petitioner raised bills to the third respondent, who inturn forwarded the same to the first respondent. Following the same, the second respondent after conducting special audit, submitted a satisfactory report about the working conditions of the equipments supplied, to the first respondent. However, without any rhyme or reason, the first respondent is withholding the payment due to the petitioner. In this regard, the petitioner sent a legal notice dated 07.11.2011, calling upon the respondents to settle bills. However, no fruitful action was taken on the same. They also submitted a representation dated 07.07.2015 to the third respondent to release the payment, which was also not considered. Therefore, the petitioner has no other option except to file this writ petition seeking appropriate direction to the respondents in this regard.

3.Upon notice, the first respondent filed a detailed counter affidavit, wherein, it is inter alia stated that this respondent received the invoices from the third respondent on 18.10.2010, 28.02.2011, 16.03.2011 under cover of its letter dated 14.10.2010 and 28.02.2011 for a total value of Rs.20,03,496/- for the repair work purportedly carried out by



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the petitioner in the year 2009 against 18 work orders issued by the third respondent. But due to deviation noticed in the orders and invoices, this respondent raised certain queries and returned the invoices by letter dated 27.05.2011 to the third respondent. Though the third respondent by letter dated 20.06.2011 furnished their replies to this respondent and resubmitted the invoices for processing, the same were not convincing, which necessitated this respondent to return the invoices subsequently to the second respondent, by letter dated 14.09.2011 and thereafter, no reply was received from the second respondent. The counter affidavit further proceeds to state that the first respondent is neither in possession of the original invoices of the petitioner nor furnished with specific recommendation of the second respondent to make payment and there are no lapses on their part.

4.From a perusal of the averments made in the counter affidavit filed by the first respondent, it could be seen that the petitioner raised invoices for the works done by them, to the third respondent, who in turn forwarded the same to the first respondent. Due to defects noticed therein, the first respondent raised certain queries and returned the invoices to the third respondent. Subsequently, the third respondent resubmitted the invoices to the first respondent, for processing. However, the replies sent by the third respondent were not convincing and hence, the first respondent returned the invoices to the second respondent for clarification. Thereafter, no reply was received from the second respondent. In such circumstances, this court is of the view that it is for the second respondent to verify the invoices submitted by the petitioner and send the report to the first respondent, within a period of four weeks from the date of receipt of a copy of this order. On such submission, the first respondent shall process the same and pass necessary orders, with regard to the settlement of billing to the petitioner, within a period of two weeks thereafter.

5.With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-CCC)

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Sub Assistant Registrar



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1. The General Manager,
The Tamilnadu Medical Services Corporation Ltd.,
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2. The Director of Medical Education,
Directorate of Medical Education,
Govt. Kilpauk Medical College Campus,
Kilpauk, Chennai - 600 010.
3. The Medical Superintendent / DEAN,
Govt. Rajaji Hospital,
Madurai.

+1CC to Mr.K.P.Gopala Krishnan, Advocate, SR.No. 39670

W.P.No.39883 of 2015

JP II(CO)
B.VC (20/10/2021)