



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27963 of 2018

M/s.Southern Communications Infrastructure Pvt.Ltd.,
Rep.by its Managing Director Mr.R.D.M.Pandian,
Aged 63 years, 3a, Galaxy Road,
Ponniamman Nagar,
Kil Ayanambakkam,
Chennai - 600 095.

... Petitioner

Vs.

M/s.Bharat Sanchar Nigam Limited,
(A Government of India Enterprise),
Ethiraj Salai, Egmore,
Chennai - 600 008.

... Respondent

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, directing the respondent herein to reimburse the service tax amount of Rs.19,29,281/- with 24% interest from the date it is payable to the Government of India as per the petitioner's representation dated 01.11.2016.

For Petitioner : Mr.S.Murugappan

For Respondent : Mr.S.Udaya Kumar
Senior Standing Counsel for BSNL

O R D E R

The relief sought for in the present writ petition is to direct the respondent herein to reimburse the service tax amount of Rs.19,29,281/- with 24% interest from the date it is payable to the Government of India as per the petitioner's representation dated 01.11.2016.

2. The learned counsel for the petitioner states that the petitioner is legally entitled for reimbursement of service tax with 24% interest, which has not been granted. The petitioner has sent several representations on various dates and it is contended that even on 18.12.2017, the petitioner has sent a representation. However, there is no response from the



respondents and therefore, the petitioner is constrained to move the present writ petition.

3. This Court is of the considered opinion that with reference to the prayer sought for to direct the respondent to reimburse the service tax amount, cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. Such a reimbursement is to be made only after adjudication of the disputes or issues with reference to the terms and conditions. Such an exercise cannot be undertaken by the High Court.

4. The learned counsel for the respondent made a submission that the petitioner, M/s.Southern Communications Infrastructure Private Limited is albeit to the contract as far as the respondent is concerned and in fact the contract was between M/s.Southern Communications Infrastructure Private Limited and therefore, the writ petition itself is not maintainable. Further it is contended that the claim made by the said M/s.Southern Communications Infrastructure Private Limited, for reimbursement of service tax was considered and rejected by the Executive Engineer (Civil), BSNL Civil Division, Balaji Nagar, Salem - 636 004, dated 11.12.2009. Even thereafter, the petitioner made a representations and those representations were also considered and an order of rejection was passed by the Executive Engineer (c), dated 26.10.2012. The claim for reimbursement was of the years 2005 to 2008 and the claim for reimbursement was rejected in the year 2009 and again the said rejection was reconfirmed in the year 2012 and the writ petition is filed in the year 2018 i.e., after a lapse of about 6 years from the date of passing of the second rejection order. Thus, the writ petition is liable to be rejected even on the ground of laches. Though the learned counsel for the petitioner made a submission that the copy of the order was not served, this Court is able to verify from the typed set of papers that the learned counsel for the petitioner received the typed set of papers served by the respondents on 27.02.2019 itself.

5. This being the fact, the said contention deserves no further consideration. This apart, mere submission of representations for a longer period could not provide a cause for reopening of the lapsed issues. The grievances are to be redressed within a reasonable period of time.

6. In the present case, the respondent states that there was no contract between the petitioner, M/s.Southern Communications Infrastructure Pvt.Ltd., and the M/s.Bharat Sanchar Nigam Limited. But there was a contract between the M/s.Southern Communications Infrastructure Pvt.Ltd., and M/s.Bharat Sanchar Nigam Limited and the said contract period



was also completed and the order of rejection for reimbursement of service tax was also passed in the year 2009 and 2012.

7. If at all, the petitioner is aggrieved, it is left open to the petitioner to approach the Competent Authority to redress their grievances in the manner known to law.

8. This being the factum established, this Court do not find any reason for the purpose of considering the relief as such sought for in the present writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Pns

To

M/s.Bharat Sanchar Nigam Limited,
(A Government of India Enterprise),
Ethiraj Salai, Egmore,
Chennai - 600 008.

+1cc to Mr.S.Murugappan, Advocate (SR No.31580)

+1cc to Mr.S.Udayakumar, Advocate (SR No.31538)

W.P.No.27963 of 2018

PCH (CO)
PR (10/08/2021)