BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.07.2021
CORAM :
THE HONOURABLE MRS.JUSTICE J. NISHA BANU
W.P.(MD).No.13227 of 2020

V.Annadurai ... Petitioner

- Vs -

1.The Secretary to Government,
Highways and Minor Ports Department,
Fort St. George, Chennai - 600 009.

2.The Director General,
Highways Department,
Integrated Chief Engineers Office,
HRS Compus, 76, Sardar Patel Road, Guindy,
Chennai - 600 025.

3.The Chief Engineer (C & M),
Highways Department,
Integrated Chief Engineers Office,
HRS Compus, 76, Sardar Patel Road, Guindy,
Chennai - 600 025.

4.The Superintending Engineer,
Highways Department,
Alagarkovil Road,
Bharathi Ula Street,
Near Lotus Tank,
Madurai - 625 002.

5.The Divisional Engineer,
Highways Department (C & M),
Sivagangai,
Sivagangai District. ...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned order passed by the 5th respondent, vide his proceeding in Form No.19c, dated 11.06.2020 and quash the same as illegal and consequently, direct the 5th respondent to convert the Goods and Service Tax(GST) to the Value Added Tax of payment for the work completed in the year of 2011.

For Petitioner : Mr.V.Muthusamundeeswaran
For Respondents : Mr.M.Lingadurai
Government Advocate

O R D E R

This Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned order passed by the 5th respondent, vide his proceeding in Form No.19c, dated 11.06.2020 and quash the same as illegal and consequently, direct the 5th respondent to convert the Goods and Service Tax(GST) to the Value Added Tax of payment for the work completed in the year of 2011.

2. When the matter is taken up for hearing, the learned Government Advocate appearing for the respondents would state that the Principal Secretary, Highways and Minors Port Department had issued a Circular in Na.Ka.No.8653/HF2/2017-1, dated 01.08.2017 stating that in any work contracts valued more than 2,50,000/-, 1% CGST and 1% SGST should be deducted from the amount to be paid. Hence, the GST deducted from the amount payable to the petitioner was a legal and bona-fide action done by the respondents and would rely on the counter affidavit filed by the 5th respondent, wherein it has been stated that the Principal Secretary, Highways and Minors Port Department had issued a Circular in Na.Ka.No.8653/HF2/2017-1, dated 01.08.2017 wherein it has been stated that in any work contracts valued more than 2,50,000/-, 1% CGST and 1% SGST should be deducted from the amount to be paid. The Chief Engineer, Highways (C&M) vide his communication in Note No.Accounts-11/MGL.11/37/2018, dated 04.10.2018 had also instructed the same and therefore, he would state that the GST deducted from the amount payable to the petitioner was a legal and bona-fide action done by the respondents herein.

3. The learned Government Advocate would further state that the CBEC Circular No.65/39/2018-DOR F.No.S.31011/11/2018-ST-I-DOR Government of India, Ministry of Finance Department of Revenue, New Delhi, Date:14.09.2018. The subject section which provides for tax deduction at source was not notified to come into force with effect from 1st July, 2017, the date from which GST was introduced. The Government has notified that these provisions shall come into force with effect from 1st October, 2018, vide Notification No.50/2018 - Central Tax, dated 13th September, 2018 to recover the Tax deduction at Source at 2% of GST and therefore, the learned Government Advocate would state that the GST amount has deducted from the Petitioner.

4. At this juncture, the learned counsel appearing for the petitioner would submit that the submissions made by the learned Government Advocate may be recorded and the Writ Petition may be closed.

5. In view of the counter filed by the respondents and the Circular issued by the Principal Secretary, Highways and Minors Port Department, dated 01.08.2017, no further adjudication is

necessary. Accordingly, the Writ Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM/MPK

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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Sivagangai, Sivagangai District.

+1 CC to M/s.SPL GP (SR-24911[F] dated 02/08/2021)

W.P.(MD).No.13227 of 2020
30.07.2021

NSN(CO)
KB(15.09.2021) 3P 7C