



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.06.2022
CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

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Writ Petition (MD) No.11635 of 2022
and
W.M.P. (MD) Nos.8218 & 8220 of 2022

Madurai City Municipal Corporation,
Rep. by its Commissioner,
Arignar Anna Maligai,
Thallakulam,
Madurai.

.. Petitioner

Versus

- 1.The Assistant Commissioner (ST),
Thallakulam Assessment Circle,
Madurai - 625 002.
- 2.The Assistant Commissioner (ST),
Sriperumpudur Assessment Circle,
at Varadharajapuram,
Kanchipuram District.
- 3.The Assistant Commissioner (ST) (FAC),
K.K.Nagar, Assessment Circle,
Madurai - 625 020.
- 4.The Branch Manager,
Indian Bank,
Thallakulam Branch,
73, Alagarkoil Road,
Thallakulam,
Madurai - 625 002.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order passed by the third respondent made in R.O.C.No.811/A3/2019-1, dated 11.05.2022, and consequential order passed in R.O.C.No.811/2019/A3, dated 16.05.2022, and quash the same.

For Petitioner : Mr.P.Athimoolapandian
For R1 to R3 : Mr.P.Subburaj
Special Government Pleader



ORDER

The petitioner/Madurai City Municipal Corporation has filed this Writ Petition seeking to quash the impugned order passed by the third respondent in R.O.C.No.811/A3/2019-1, dated 11.05.2022, and consequential order passed in R.O.C.No.811/2019/A3, dated 16.05.2022.

2.The third respondent/Assistant Commissioner (ST) (FAC), K.K.Nagar Assessment Circle, Madurai, addressed a communication dated 11.05.2022, to the Commissioner, Corporation of Madurai, demanding Rs.7,43,08,617/- as arrears of tax and penalty from the petitioner. Thereafter, the third respondent sent another communication to fourth respondent/Branch Manager, Indian Bank, Thallakulam Branch, Madurai, informing that the petitioner is in arrears of tax due of Rs.7,43,08,617/- and requested to freeze the account of the petitioner/Corporation. Challenging the same, the petitioner has filed this Writ Petition.

3.The contention of the petitioner is that they awarded contract work to Tvl.Ramky Infrastructure Ltd., Sriperumpudur Assessment Circle, for designing, erection, commissioning and maintenance of sewerage treatment plant, for which, the petitioner paid a sum of Rs.81,58,54,917/-. As per Section 13 of the Tamil Nadu Value Added Tax Act, 2006, the Assessee while awarding contract shall deduct tax at the rates prescribed at the time of payment and pay it along with the prescribed return within the prescribed period.

4.The learned counsel for the petitioner submits that the Assistant Commissioner (CT) (FAC), Thallakulam Assessment Circle, Madurai, vide R.O.C.No.774/2011, dated 31.01.2012, verified the records in respect of Tvl.Ramky Infrastructure Ltd., Sriperumpudur Assessment Circle, for the year 2008-2009 and recorded petitioner/Corporation paid an amount of Rs.81,58,54,917/- to the said dealer and deducted tax at source to the tune of Rs.29,10,748/- instead of Rs.3,26,34,197/- in respect of contract work. This was not reported to the Commercial Tax Officer, Thallakulam. The petitioner produced Form - S 'No Due Certificate' in respect of contract works to Tvl.Ramky Infrastructure Ltd., confirming that a sum of Rs.1,34,47,755/- paid by the said Company to the second respondent for the work carried out in the year 2009-2010. Further, the the second respondent informed the same to the first respondent vide his communication in Rc.No.1325/2016/A3, dated 04.04.2022. The third respondent failed to consider the proceedings of the second respondent, dated 18.12.2018, informing first respondent that Tvl.Ramy Infrastructure Ltd., has paid the tax of sum of Rs.1,34,47,755/- during the period from 21.09.2009 to 18.04.2010. The Ledger and other particulars have been furnished. This was looked and considered by the respondents 1 to 3, instead the third



respondent wrongly informed the fourth respondent to freeze the bank account of the petitioner for tax dues.

5.Mr.P.Subbaraj, learned Special Government Pleader, who takes notice for the respondents 1 to 3, on instructions, submits that the third respondent is shall to recall the impugned proceedings, both dated 11.05.2022 and 16.05.2022. Provided, Form - S 'No Due Certificate' issued by the second respondent, dated 16.07.2013 along with the Letter dated 04.04.2022, issued by the second respondent to the first respondent are produced for verification. The petitioner to resubmit necessary documents to the first respondent, thereafter the accounts would be reconciled and revised orders will be issued.

6.The petitioner, Corporation of Madurai and the respondents 1 to 3 both are arms of the State, who are discharging their assigned work, on behalf of the State. Tax already deducted and paid thereafter, certificate and proceedings issued. There seems to be some miscommunication and improper acknowledgement of the document submitted, which led to the present situation. Now, the respondents 1 and 3 are agreeable that on receipt of the copy of the certificate, proceedings and correspondence, the Tax accounts will be reconciled and reversed, consequently the fourth respondent/Bank would be appropriately, advised to recall the instruction of freezing the petitioner bank account. The said exercise shall be completed immediately without delay.

7.In the result, the impugned orders of the third respondent dated 11.05.2022 and 16.05.2022, are set aside and the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

13/06/2022

Sub Assistant Registrar (CS)

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To

1.The Assistant Commissioner (ST),
Thallakulam Assessment Circle,
Madurai - 625 002.

2.The Assistant Commissioner (ST),
Sriperumpudur Assessment Circle,
at Varadharajapuram,

<https://hcservice.sarni.gov.in/hcservice/> District.



3.The Assistant Commissioner (ST) (FAC),
K.K.Nagar, Assessment Circle,
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4.The Branch Manager,
Indian Bank,
Thallakulam Branch,
73, Alagarkoil Road,
Thallakulam,
Madurai - 625 002.

+1 CC to M/s.SPL GP (SR-25442[F] dated 13/06/2022)

WP (MD) No.11635 of 2022
10.06.2022

MA (CO)

GC (13.06.2022) 4P 6C