IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.15066 of 2020

N.Parameshwaran .. Petitioner

vs

1.The Superintending Engineer,
Public Works Department,
Electrical Circle (Blds.Organ),
Chepauk, Chennai – 600 005.

2.The Electrical Engineer,
Public Works Department,
Electrical Division II,
Chepauk, Chennai – 600 005.

3.The State Tax Officer,
Commercial Tax Office,
Jawalikadai Veedhi,
Dharapuram Assessment Circle,
Dharapuram. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to refund Rs.18,16,693.50/- being the excess amount deducted by the respondents under Agreement No.3CL/2017-18 and pass such further or other orders as this Court may deem fit.

For Petitioner	:	Mr.G.Surya Narayanan
For Respondents	:	Mr.K.V.Sajeev Kumar for R1, R2 Mrs.K.Vasanthamala Government Advocate for R3

ORDER

The petitioner is a sole proprietary and had entered into a contract with the Public Works Department in the State of Tamil Nadu. They were allocated a contract for design, engineering supply, erection, testing and commissioning and handing over of 400 KWP Ground Mounted Grid Connected Solar Photovoltaic Power Plant at Raj Bhavan, Chennai.

2. The agreement was dated 26.04.2017. At that relevant point in time, it was the Tamil Nadu Value Added Tax Act,2006 that was in force and the rate of tax of purchase was 5%. There is some dispute with regard to the date where the project underneath the contract has been completed and being a disputed question of fact, this Court does not render a finding.

3. While this is so, The Tamil Nadu Goods and Service Tax Act, 2017, came into force and the rate of tax to be enhanced to 12%. According to petitioner, G.O.No.296 dated 09.10.2017 would come to its aid as it provides that contracts that straddle the pre and post GST regime would be entitled to the benefit of lower rate of tax that were in force when the contract was entered into, in the present case being 5%.

4. The PWD Department has, however, deducted tax at 12% and has remitted the same to the Commercial Tax Department and an assessment has also been completed on the petitioner on 07.05.2021, adjusting the entirety of the tax deducted towards the demand.

5. The petitioner has made a representation before the Electrical Engineer, PWD on 31.07.2020 seeking refund of the additional tax that has been deducted from it and rests content with a direction to that officer to dispose that representation within a time to be fixed by this Court. Hence, the relief sought is modified and mandamus is issued to R2 to dispose the aforesaid representation within a period of six weeks from today, after hearing the petitioner and bearing note of of G.O.No.296 dated 09.10.2017.

7 . This writ petition stand disposed as above. No costs.

16.06.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To:

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Dharapuram.

DR. ANITA SUMANTH,J.

ssm

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