IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22771 of 2023
and
W.M.P.Nos.22225 & 22226 of 2023

Vediappan .. Petitioner

Vs.

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai – 600 009.

2.The Additional Chief Secretary to Government,
Finance Department,
Fort St. George, Chennai – 600 009.

3.The Additional Chief Secretary to Government,
Highways and Minor Ports Department,
Fort St. George, Chennai – 600 009.

4.The Chief Engineer,
National Highways (Construction and Maintenance),
Integrated Chief Engineer's Office,
HRS Campus,
76, Sardar Patel Road,
Guindy, Chennai – 600 025.

5.The Superintending Engineer,
National Highways,
Kuranguchavadi, Omalur,
Salem – 636 004.

6.The Divisional Engineer,
National Highways,
Kuranguchavadi, Omalur Main Road,
Salem – 636 004.

7.The Divisional Engineer,
Highways, Construction and Management,
Virupachipuram Collectorate,
Dharmapuri.

8.The State Tax Officer,
Harur Assessment Circle,
Varnatheertham, Near PWD Quarters,
Harur – 636 903.

9.The Commercial Tax Officer – Harur,
Dharmapuri Zone, Salem Division,
T.V.Ka Nagar, Varnatheertham,
Near PWD Quarters,
Harur – 636 903. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of mandamus directing the respondents 2 to 4 and their subordinates to implement and scrupulously follow the Government Order in G.O.Ms.No.114 of Commercial Taxes and Registration Department dated 22.07.2022 issued by the 1st respondent in its letter and spirit in considering the representation dated 21.04.2023 submitted by the petitioner to the 6th respondent within a time frame as may be fixed by this Court and consequently direct the respondents 8 & 9 not to take any steps to recover the outstanding dues pursuant to the demand notice in Reference No.ZD330323101794R dated 21.03.2023 & Reference No.ZD330523137215R dated 29.05.2023 until the disposal of the said representation dated 21.04.2023.

For Petitioner	:	Mr.Vignesh Venkat
For RR 1, 8 & 9	:	Mrs.E.Ranganayaki Special Government Pleader
For RR 4 to 7	:	No appearance

O R D E R

This Writ Petition is disposed of after hearing the learned counsel for the petitioner and the learned Special Government Pleader for respective respondents.

2.Although in paragraph No.3 of the counter affidavit, the 6th respondent has stated that the Writ Petition is not maintainable either on law or on facts, in paragraph Nos.6 to 8 of the counter affidavit, there is an undertaking to the effect that the 6th respondent had sought for an approval and for making payment of the differential GST at 6%, which stood enhanced with effect from 18.07.2022. Paragarph Nos.6, 7 & 8 of the counter affidavit of the 6th respondent reads as under:

"6.It is submitted that the current prevailing rate of 12% GST was calculated while preparing the estimate. Hence, the approval and fund for making payment for the 6% difference cost has to be obtained from the competent authority. Action has been taken by this respondent to settle the 6% differences cost. After attending various remarks and observations made by the higher officials, finally this respondent addressed a letter to the Superintending Engineer, National Highways, Salem in Lr.No.678/2022/A1 dated 17.07.2023 to take necessary action to get the 6% of GST from the National Highways Authority of India for making payment to the Contractor. In turn, the Superintending Engineer, National Highways, Salem has addressed a letter in Lr.No.302/2023/A2 dated 10.08.2023 to the Chief Engineer, National Highways, Chennai recommending to get 6% difference of GST. It is submitted that necessary orders are being expected by this respondent and on receipt of necessary orders and funds, the difference of 6% GST will be settled to the contractor. It is submitted that following part payments with 12% GST have been made in respect of above work.

S. No.	Month	Bill No.	Value of work done (Rs.)	12% GST
1.	August 2022	Ist & Part	8,42,86,022-	1,01,14,323-
2.	Sept 2022	IInd & Part	6,34,99,065-	76,19,888-
3.	Sept 2022	IIIrd & Part	4,79,19,870-	57,50,384-
4.	Nov 2022	IVth & Part	3,88,36,525-	46,60,503-
5.	January 2023	Vth & Part	1,99,09,181-	23,89,102-
6.	March 2023	VIth & Part	3,04,41,694-	36,53,003-
7.	June 2023	VIIth & Part	6,14,81,930-	73,77,832-
	Total		**34,63,74,287-**	**4,15,65,035-**

> 7.It is pertinent to submit that the bill mentioned in May 2023 is not related to National Highways, Salem Division. It is also submitted that the bills mentioned in February 2023 & April 2023 were raised for different work for which 18% GST has been paid in July 2023.
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> 8.It is submitted that on receipt of necessary funds and orders from the Competent Authority by Project Director, National Highways Authority of India, the petitioner will be settled the difference of 6% GST without any delay."

3.Recording the above, the Writ Petition is disposed of by directing the respondents to expedite the reimbursement of tax already paid by the petitioner and to pay the differential tax directly to the account of the respondents 8 & 9. The respondents 8 & 9 are directed not to take any coercive steps against the petitioner as the tax is to be paid to the Government and the amount to be paid also is also by the Government.

4.The 6th respondent is directed to dispose of the petitioner's representation dated 21.04.2023 and to take steps for getting the amounts due from the Government as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

5.The Writ Petition is disposed of with the above observations.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

22.09.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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