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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.20827 of 2017

RR Thulasi Builders (I) Pvt. Ltd
Old No.18 New No.25
11th Avenue, Ashok Nagar
Chennai - 600 083.
Rep. by its Executive Director
R.R.Sathiyamurthi

...Petitioner

-Vs-

1. The Estate Officer
   Tamil Nadu Fisheries University
   Nagapattinam-1

2. The Finance Officer,
   Tamil Nadu Fisheries University
   Nagapattinam-1

3. The Registrar
   Tamil Nadu Fisheries University
   Nagapattinam-1

4. The Secretary
   Government of Tamilnadu,
   PWD, Secretariat,
   Chennai- 600 009.

...Respondents

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Prayer:- Writ petition filed under Article 226 of the Constitution of India to consider petitioners representations dated 04.04.2017 and 08.07.2017 and direct the respondents to reimburse the service Tax amount to a sum of Rs.80,15,710/- (Rupees Eighty Lakhs Fifteen Thousand Seven Hundred and Ten Only) paid by the petitioner on behalf of the respondents.

For Petitioner	: Mr.N.P.Vijayakumar
For Respondent	: Mr.V.Vijay Shankar [R.1 to R.3]
	: Mr.Haja Nazirudeen, AGP, assisted by Alagu Goutham, Government Advocate [R.4]

ORDER

The grievance of the writ petitioner is that they have executed construction works pursuant to the contract awarded to the petitioner by the Public Works Department of the Government of Tamil Nadu.

2. The learned counsel for the petitioner states that Service Tax has been paid in excess which is otherwise not contemplated under the terms and conditions of the contract. Thus, the petitioner is entitled to reimbursement of the Service Tax collected from the petitioner.

3. The learned counsel for the petitioner submits that as a service receiver, PWD Department has to reimburse the above amount of

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Rs.80,15,710/- (Rupees Eighty Lakhs Fifteen Thousand Seven Hundred and Ten Only) to the petitioner/company. The learned counsel for the petitioner further states that the representations submitted on 04.04.2017 and 08.07.2017 seeking reimbursement of the Service Tax collected is yet to be considered by the respondent. Thus, the petitioner is constrained to move the present writ petition.

4. The learned Additional Advocate General appearing on behalf of the respondent contended that the issues raised by the petitioner were considered by the Patna High Court in the case of ***Multi Engineering and Scientific Corporation Vs. Bihar State Electricity Board*** reported in ***2015 SCC OnLine Pat 1845.*** However, the petitioner is at liberty to raise objections in respect of the judgement and also the facts involved in the case of the petitioner.

5. This Court cannot adjudicate the disputed facts between the parties. The contractual obligations or the disputed issues have to be decided by the competent authorities at the first instance and in the present case, the petitioner is relying on the letter given by the Executive Engineer for reimbursement of Service Tax and therefore it is to be considered based

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on the representations.

6. Accordingly, the 3rd respondent is directed to consider the representations submitted by the writ petitioner on 04.04.2017 and 08.07.2017 and pass appropriate orders on merit and in accordance with law as expeditiously as possible and preferably within a period of 4 months from the date of receipt of a copy of the order.

7. With these observations, the writ petition stands disposed of**.** No costs.

(shr) **27.03.2023**
Index : Yes/No
Speaking / Non Speaking Order
Neutral Citation : Yes/No

To

The Tahsildar cum Executive
Magistrate,
Mylapore Taluk,
Chennai - 600028.

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S.M.SUBRAMANIAM. J.,

(shr)

W.P.No.20827 of 2017

27.03.2023