BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.17311 of 2023

M/s.P.S.T.Engineering Construction,
No.2/352, Vavipalayam, Kolaram Post,
Paramathy Velur Taluk,
Namakkal,
Tamil Nadu – 637 003,
Represented by its Managing Partner,
V.S.Thennarasu ... Petitioner

Vs.

The Superintending Engineer,
Public Works Department,
WRD, Lower Cauvery Basin Circle,
Government of Tamil Nadu,
Thanjavur. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to dispose of the two representations sent to them by the petitioner dated 27.12.2022 in a time bound manner.

For Petitioner : Mr.Raguvaran Gopalan

For Respondent : Mr.B.Saravanan,
Additional Government Pleader.

ORDER

This writ petition has been filed seeking Writ of Mandamus to dispose of the petitioner's representation dated 27.12.2022.

2. Heard the learned counsel on either side. With their consent, the writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner is a construction company was awarded tender for construction, renovation and modernization of irrigation infrastructure in Cauvery Sub Basin in Papanasam etc., with the water resources Department. The petitioner was successful bidder in the tender and entered into works contract agreement with the respondent in the year 2020.

4. Until 18.07.2022 the rate of GST prescribed is 12% on composite supply of works contract supplied to either the central government, state government or local authority as per Notification No.11/2017 Central Tax (Rate) dated 28.06.2017 read with Notification No.20/2017 Central Tax (Rate) dated 22.08.2017. However, the same was increased to 18% by virtue of Notification No.3/2022 Central Tax (Rate) dated 13.07.2022 which has

amended the Notification 11/2017. The said amendment was given effect to when the agreement was subsisting with rate as 12%. Hence representation was submitted to the respondent to pay the differential rate of GST to all the invoice and bills as per Notification No.3 of 2022.

5. The petitioner Company claim to have remitted 18% GST on the turnover from the contracts, they have been reimbursed only to the extent of 12%. Hence, they claim that the following Notifications are liable to be taken into account by the respondent for proper fixation of GST liability and consequent reimbursement.

i) Notification No.11/2017 - Central Tax (Rate) dated 28.06.2017

ii) Notification No.20/2017 - Central Tax (Rate) dated 22.08.2017

iii) Notification No.03/2022 - Central Tax (Rate) dated 13.07.2022

6. Since B.Saravanan , the learned Additional Government Pleader for the respondent would accede to the position that the representation dated 27.12.2022 was received by the respondent and the same would be considered.

7. Therefore the respondent is directed to consider the representation of the petitioner for payment of differential rate of GST by considering the relevant notifications within a period six (6) weeks from the date of receipt of a copy of this order. If need be personal hearing may be granted to the petitioner.

8. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

19.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

The Superintending Engineer,
Public Works Department,
WRD, Lower Cauvery Basin Circle,
Government of Tamil Nadu,
Thanjavur.

S.SRIMATHY, J.

Nsr

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