BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21313 of 2023
and
W.M.P.(MD).No.17720 of 2023

M/s.Premier Garments Processing,
Old No.4, New No.29,
Govindan Street,
T.Nagar,
Chennai – 600 017. ... Petitioner

Vs.

1.The Commissioner of Central Excise and Service Tax,
MHU Complex, Nandanam,
Chennai.

2.The Senior Divisional Manager,
(Senior DME) Southern Railway,
Divisional Office,
Mechanical Branch,
Madurai. ... Respondents

<u>Prayer</u> : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent herein to forthwith issue No Claim Certificate to the petitioner in respect of the amounts due under the contract Agreement No.U/M/Boot/Mdu dated 24.07.2020 between the petitioner and the second respondent after deducting a sum of Rs.1,97,50,308/- towards the alleged service tax enabling the second respondent to release the payments to the petitioner.

For Petitioner	:	M/s.A.L.Gandhimathi, Senior Counsel, For Mr.C.Mahadevan
For R-1	:	Mr.R.Nanda Kumar, Senior Standing Counsel, Assisted by, Mr.S.Ragaventhree, Junior Standing Counsel
For R-2	:	Mr.K.Govindarajan, DSGI

ORDER

This Writ Petition is filed for Mandamus, directing the first respondent herein to forthwith issue No Claim Certificate to the petitioner in respect of the amounts due under the Contract Agreement dated 24.07.2020 between the petitioner and the second respondent after deducting a sum of Rs.1,97,50,308/- towards the alleged Service Tax enabling the second respondent to release the payments to the petitioner.

2. The contention of the petitioner is that the petitioner participated in the tender called for by the Railways and the petitioner is the successful bidder and was executing the work. Based on the contract the Railways is bound to pay the bills amounting to Rs.5.6 Crores for the period from April, 2022 to April, 2023. However, the same was not released, because the first respondent issued letter to the Railways stating that the petitioner has not paid GST dues to the tune of Rs.1,97,50,308/-. The dispute between the petitioner and the GST authority has reached the Supreme Court and the same is pending. Based on the communication of the GST authority the 2nd respondent is not releasing the entire amount of Rs.5.6 crores. Even if the petitioner is liable to pay the amount of Rs.1,97,50,308/-, the Railways cannot retain the entire amount of Rs.5.6 crores, since the dispute between the GST authority and the petitioner is only Rs.1,97,50,308/-.

3. Therefore, the second respondent Railways is directed to pay the balance amount to the petitioner after retaining the amount of Rs.1,97,50,308/-. The said exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of this order.

4. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.09.2023

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

Note: Issue Order Copy on 26.09.2023.

To

1.The Commissioner of Central Excise and Service Tax,
MHU Complex, Nandanam,
Chennai.

2.The Senior Divisional Manager,
(Senior DME) Southern Railway,
Divisional Office,
Mechanical Branch,
Madurai.

S.SRIMATHY, J.

Nsr

W.P.(MD).No.21313 of 2023

22.09.2023