BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No. 23527 of 2023
and
W.M.P(MD)No.19086 of 2023

PWD Contractors Federation,
Represented by its State President Mr.V.Sudarsan,. ... Petitioner

Vs

1. The Secretary ,
   Ministry of Finance,
   Government of India,
   New Delhi - 110 001.

2. The Principal Chief Commissioner of
   GST and Central Excise,
   Tamil Nadu and Puducherry,
   No.26/1, Mahatma Gandhi Road,
   Nungambakkam,
   Chennai - 600 034. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents herein to consider the representation of the petitioner, dated 19.09.2023, pertaining to granting waiver of Service Tax on construction of Buildings/Works performed for the Public Works Department in the State of Tamil Nadu and further direct the respondents not to proceed with the Service Tax Recovery proceedings pending the consideration of the representation of the petitioner seeking waiver, as granted to Contractors of Local Authorities.

For Petitioner : Mr.S.Srinivasa Raghavan, for
Mr.S.Krishnan

For Respondents : M/s.R.Nandakumar, Senior Standing Counsel,
assisted by
M/s.S.Ragaventhree,
Junior Standing Counsel

ORDER

This writ petition is filed seeking direction to the respondents to consider the representation of the petitioner, dated 19.09.2023, pertaining to grant waiver of Service Tax on construction of Buildings/Works performed for the Public Works Department in the State of Tamil Nadu and seeking further direction to the respondents not to proceed with the Service Tax Recovery proceedings.

2. Heard Mr.S.Srinivasa Raghavan, for Mr.S.Krishnan, the Learned counsel appearing for the Petitioner, M/s.R.Nandakumar, the Learned Senior Standing Counsel assisted by M/s.S.Ragaventhree, the Learned Junior Standing Counsel the Learned Standing Counsel appearing for the Respondents and perused the material documents available on record. With consent of both the parties this writ petition is taken up for final disposal at the admission stage itself.

3. Pending consideration of the representation of the petitioner's Association, certain individual had filed writ petitions and has obtained orders from the Court.

4. The Learned Counsel appearing for the petitioner submitted that this Court has already considered the issue in W.P(MD)No.16832 to 16840 of 2023 and passed an order dated 17.07.2023. In the said writ petition this Court has recorded that the Learned Special Government Pleader has submitted that the issue is under consideration of the Government. Recording the said submission, this Court has directed the authorities to consider and pass orders. The relevant portion is extracted hereunder:

> *"2. The petitioner in W.P.(MD)No.16832 of 2023 is a Registered Class I Contractor in Public Works Department and he has carried out the works contract service to the Public Works Department during the period 2015-2017. The issue of paying service tax was considered by the Hon'ble Division Bench of this Court and has held that the petitioner is liable to pay tax. However, liberty was granted to the petitioner that they can collect the tax from the Government and pay it to the Department. Now, the petitioner has come out with a case that the Government is not considering the claim of the petitioner and pay the tax, inspite of several representations.*
>
> *3. Therefore, the 1st respondent ought to consider the case of the petitioner. The Learned Special Government Pleader submitted that the claim of the petitioner is under consideration. Therefore, this Court is of the considered opinion that appropriate authority ought to consider and pass orders.*
>
> *4. Hence, the 1st respondent in W.P.(MD)Nos.16832 to 16894 and 16896 to 16840 of 2023 are directed to consider the case of the petitioners therein and pass orders within a period of twelve weeks from the date of receipt of a copy of this order".*

5. Following the same, this Writ petition is allowed in the above terms. In the meanwhile, the respondents shall not take any coercive action against the members of the Petitioner's Association.

6. With the above terms, this Writ Petition is allowed. No Costs.

Index : Yes / No **26.09.2023**
Internet : Yes
NCC : Yes / No
ksa

To

1. The Secretary ,
Ministry of Finance,
Government of India,
New Delhi - 110 001.

2. The Principal Chief Commissioner of
GST and Central Excise,
Tamil Nadu and Puducherry,
No.26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.

<u>S.SRIMATHY, J</u>

ksa

Order made in
W.P.(MD)No. 23527 of 2023

26.09.2023