



W.P.(MD).No.23993 of 2023 etc.,

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD).Nos.23993, 26178, 26217, 26224 and 26228 of 2023
and
W.M.P(MD).No.20148 of 2023

M.Amsavalli ... Petitioner in W.P(MD).No.23993 of 2023

M/s.SS and Company
Rep.by its Managing Partner,
Subramanian ...Petitioner in W.P(MD).Nos.26178 of 2023
and W.P(MD).No.26224 of 2023

Subramanian ...Petitioner in W.P(MD).No.26217 of 2023

M/s.KOP & Company
Rep.by its Managing Partner,
K.O.Periya Karuppan ...Petitioner in W.P(MD).No.26228 of 2023

Vs.

1.The Commissioner,
Sivagangai Municipal Corporation,
Sivagangai. ...1st respondent in W.P(MD).No.23993 of 2023
and respondent in W.P(MD).Nos. 26178,
26217, 26224 and 26228 of 2023

2.The Commissioner of GST and General Excise,
Lat Bahadur Shastri Road, Bibikulam,
Madurai-625 002. ...2nd respondent in W.P(MD).No.23993 of 2023



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PRAYER in W.P(MD).No.23993 of 2023: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to implement G.O.Ms.No.114, Commercial Taxes and Registration Department, dated 22.07.2022 by paying service tax at the rate of 18% on the bills claimed by the petitioner in connection with GST.No.33AOPPA1104CIZV and consequently, directing the respondent to release the pending arrears of a sum of Rs.4,74,387/- and consequently, directing the respondent to release 5% of deducted amount from 01.04.2022 to 31.03.2023 with 12% of cumulative interest within time stipulated by this Court.

PRAYER in W.P(MD).No.26178 of 2023: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to release the pending arrears of a sum of Rs.45,08,412/- for the completed work in Judge Rajasekaran Salai in Ward No.4, in Sivagangai Municipality vide work order No.Na.Ka.620/2023/E1 dated 28.04.2023 with 12% of cumulative interest within the time stipulated by this Court.

PRAYER in W.P(MD).No.26217 of 2023: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to release the pending arrears of a sum of Rs.15,00,000/- for the completed work under Tamil Nadu Urban Roads Infrastructure Project-2020-2021 with 12% of cumulative interest within



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time stipulated by this Court.

PRAYER in W.P(MD).No.26224 of 2023: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to release the pending arrears of a sum of Rs.5,02,286/- for the completed work in desilted Chekkadi Oorani which is situated in Survey Nos.6,7, 8 and 9, Block-6, Ward No.C, Sivagangai Municipality with 12% of cumulative interest within time stipulated by this Court.

PRAYER in W.P(MD).No.26228 of 2023: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to release the pending arrears of a sum of Rs. 44,57,379/- to providing BT surface at Ward No.15, Ambedkar Second Street and other areas in Ward Nos.25, 26, Sivagangai Municipality vide work order No.Na.Ka.625/2023/E1 dated 02.06.2023 with 12% of cumulative interest within time stipulated by this Court.

In all petitions

For Petitioners : Mr.R.M.Arun Swaminathan

For Respondents : Mr.A.Kathiravan
Standing Counsel

COMMON ORDER

The petitioners, with a grievance that the Commissioner, Sivagangai Municipal Corporation, Sivagangai District, has not disbursed the amounts for the works which the petitioners have executed for the Municipality, have filed these Writ Petitions.



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2. The learned counsel appearing for the petitioners submits that based on the tender Notification issued by the Commissioner, Sivagangai Municipal Corporation, Sivagangai District, the petitioners have participated in the tender and have been awarded with the contract. The petitioners have executed the work by borrowing loan at huge interest. They have completed the work to the satisfaction of the Commissioner, Sivagangai Municipal Corporation, Sivagangai District. While so, even after a lapse of two years, the said Municipality has not disbursed the amount as per the terms of the contract. He further submits that since the said Municipality has not disbursed the amount, the Authority under GST Act has imposed penalty to an extent of 60% on the petitioners on the ground that the petitioners have not paid the amount in time.

3. The learned Standing Counsel appearing for the respondent Municipality submits that the amount would be disbursed to these petitioners on priority basis after taking a decision in the Council meeting.



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4. This Court is unable to accept the contention of the learned Standing Counsel appearing for the respondent Municipality. The Commissioner, Sivagangai Municipal Corporation, Sivagangai District, has conducted tender based on the resolution of the Council and the petitioners have participated in the tender and have been awarded with the contract and have executed the contract work to the satisfaction of the Municipality. Therefore, it is the duty of the Municipality to settle the amount due to the petitioners in time. It cannot be simply denied on account of delay in convening the Council meeting. The petitioners have also expressed their difficulties of facing penalty with the GST Authority for the delay in payment and the petitioners have borrowed loan at huge interest for executing the contract work.

5. Since the learned Standing Counsel appearing for the respondents Municipality has not offered his explanation properly to these Writ Petitions for the delay in payment after execution of the contract work, this Court is inclined to allow these Writ Petitions with a direction to the respondent Municipality to settle the amounts due to the



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petitioners for having executed the contract work along with interest at the rate of 6% per annum within a period of 12 weeks from the date of receipt of a copy of these orders.

6. Accordingly, these Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
ssb

To

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Sivagangai.
- 2.The Commissioner of GST and General Excise,
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B.PUGALENDHI, J.

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