IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.Nos.3537, 3542 & 4252 of 2024**

T.Jayaprakash ... Petitioner in all WP's

-vs-

1.Divisional Engineer
Highways Department
Tirupattur Division
Tirupattur 630 211. ... 1st Respondent in W.P.3537 of 2024

1.Divisional Engineer
Highways Department
LIG Colony,
Londonepet,
Krishnagiri 635 001. ... 1st Respondent in W.P.3542 of 2024

1.Divisional Engineer
Highways Department
Dharmapuri Division,
Dharmapuri 636 701. ... 1st Respondent in W.P.4252 of 2024

2.Commercial Tax Officer
Palacode
Chithraipatti (Vill), Belarahalli (post)
Palacode TK,

Dharmapuri 636 803. ... 2nd Respondent in all WP's

**PRAYER in W.P.No.3537 of 2024**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus directing the first respondent to consider the representation dated 01.12.2023 made the petitioner and reimburse the additional GST liability of the petitioner along with applicable interest payable by the petitioner.

**PRAYER in W.P.No.3542 of 2024**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus directing the first respondent to consider the representation dated 30.11.2023 made the petitioner and reimburse the additional GST liability of the petitioner along with applicable interest payable by the petitioner.

**PRAYER in W.P.No.4252 of 2024**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus directing the first respondent to consider the representation dated

24.11.2023 made the petitioner and reimburse the additional GST liability of the petitioner along with applicable interest payable by the petitioner.

| | | |
|---|---|---|
| For Petitioner in all WP's | : | Mr.G.Natarajan |
| For Respondent 1 in all WP's | : | Mr.P.Balathandayuthan, Spl. GP |
| For Respondent 2 in all WP's | : | Mr.V.Prasanth Kiran, GA (T) |

**********

**COMMON ORDER**

These three writ petitions are filed seeking consideration of the respective representation pertaining to reimbursement of additional GST liability. The petitioner is engaged in carrying out road laying and repair work for the Highways Department of the Government of Tamil Nadu. The activities undertaken by the petitioner are liable to the levy of GST. When the petitioner executed contracts with the Highways Department, GST was payable at the aggregate rate of 12%. Subsequently, by Notification No.3/2022 - Central Tax (Rate) dated 13.07.2022, which came into force from 18.07.2022, the rate of tax was enhanced to 18% in the aggregate. In those circumstances, the petitioner submitted a representation to the respective respondents seeking reimbursement.

2. After the writ petitions were filed, it appears that partial reimbursement was made. Learned counsel for the petitioner has placed before me an abstract specifying the amounts received from the Highways Department and the amounts still outstanding. As regards Tirupattur, it is stated that a sum of Rs.27,28,028/- was received and that a further sum of Rs.26,82,244/- is receivable. As regards Dharmapuri, it is stated that a sum of Rs.28,89,873/- was received and that a further sum of Rs.50,301/- is pending. As regards Krishnagiri, it is stated that Rs.98,06,915/- was received

leaving a balance of Rs.37,28,197/-. In addition, learned counsel submits that the GST authorities have also imposed interest on the petitioner and that such interest liability should also be borne by the Highways Department.

3. Mr.P.Balathandayutham, learned Special Government Pleader for the Highways Department, concurs in the submissions of learned counsel for the petitioner with regard to amounts already disbursed by the Highways Department. He further submits that since the Highways Department took a decision to reimburse the GST liability, the remaining amount towards principal liability would be discharged. As regards interest, he submits that the representation did not call upon the Highways Department to pay interest.

4. The admitted position is that the relevant construction contracts were awarded by the Highways Department to the

petitioner. Ordinarily, the tax liability arising out of supplies or services is passed on by the supplier or service provider to the recipient of supplies / services. In this case, the Highways Department has also taken a decision to reimburse the additional GST liability to the petitioner. The GST authorities imposed interest on the petitioner on account of delayed remittance of the additional GST liability. Such belated payment appears *prima facie* to be a consequence of the belated reimbursement by the Highways Department. Therefore, a case is made out for the consideration of the request of the petitioner for reimbursement.

5. In the facts and circumstances, set out above, these writ petitions are disposed of by directing the Highways Department to consider the respective representation and make payment of the unpaid amounts towards reimbursement of GST liability. This exercise shall be completed within a maximum period of ***two months*** from the date of receipt of a copy of this order. The petitioner is also

permitted to submit a fresh representation with regard to interest. Such representation shall be submitted within a maximum period of ***two weeks*** from the date of receipt of a copy of this order. Upon receipt thereof, the Highways Department is directed to consider such representation by also taking into account the observations set out in the order and thereafter dispose of the same on merits within a period of ***two months*** from the date of receipt thereof.

6. W.P.Nos.3537, 3542 and 4252 of 2024 are disposed of on the above terms. No costs.

**27.02.2024**

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

**To**

1.Divisional Engineer, Highways Department
Tirupattur Division, Tirupattur 630 211.

2.Divisional Engineer, Highways Department
LIG Colony, Londonepet, Krishnagiri 635 001.

**SENTHILKUMAR RAMAMOORTHY,J**

rna

3.Divisional Engineer, Highways Department
Dharmapuri Division,
Dharmapuri 636 701.

4.Commercial Tax Officer
Palacode
Chithraipatti (Vill), Belarahalli (post)
Palacode TK,
Dharmapuri 636 803.

**W.P.Nos.3537, 3542 & 4252 of 2024**

**27.02.2024**