



W.P.No.13400 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.13400 of 2024
and W.M.P.No.14549 of 2024

Tvl. Norton Granites & Properties (P) Ltd
10/18, Manikeswari Road,
Kilpauk, Chennai - 600 010
Tamil Nadu.

... Petitioner

-vs-

The Commercial Tax Officer
Kilpauk Assessment Circle,
Chennai 600 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to the impugned rejection order dated 24.11.2022 for the year 2019-20 in Application Reference Numbers AA331122042582S challenging the order passed by the respondent to quash the same as illegal and arbitrary and devoid of



W.P.No.13400 of 2024

merit and consequentially direct the respondent herein to restore
Form GST RFD 01 dated 16.11.2022.

For Petitioner : Mr.R.Sivakumar

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

The petitioner assails a rejection order dated 24.11.2022 for assessment period 2019-20. The petitioner had entered into an agreement for development / sale with KG Foundation Private Limited (KG Foundation). Under the said agreement, the property was to be developed by KG Foundation. In relation thereto, the petitioner states that KG Foundation collected GST at 18% in relation to the construction activities. On the basis that GST should have been collected at 5% and not at 18%, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner



W.P.No.13400 of 2024

paid GST at 18% to KG Foundation and, therefore, the application for refund is maintainable at the instance of the petitioner.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the registered person under applicable GST enactments is KG Foundation and not the petitioner. Consequently, he submits that the refund application should have been filed by the registered person and not by the petitioner. He also points out that such application is required to be filed within two years as per Section 54 of applicable GST enactments.

4. GST is imposed on construction services on forward charge basis on the provider of services. In this case, services were provided by KG Foundation and not by the petitioner. Therefore, the contention of learned Additional Government Pleader is liable to be accepted. This writ petition is not maintainable at the instance of the



W.P.No.13400 of 2024

petitioner.

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5. For reasons aforesaid, W.P.No.13400 of 2024 is dismissed without any order as to costs. Consequently, W.M.P.No.14549 of 2024 is closed. It is needless to say that it is, however, open to the petitioner to initiate appropriate legal proceedings against KG Foundation in accordance with law.

10.06.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Commercial Tax Officer
Kilpauk Assessment Circle,
Chennai 600 003.



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W.P.No.13400 of 2024

SENTHILKUMAR RAMAMOORTHY,J

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W.P.No.13400 of 2024
and W.M.P.No.14549 of 2024

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