BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7991 of 2024
and
W.M.P.(MD)No.7250 of 2024

N.Nagarajan ... Petitioner

Vs.

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Block Development Officer,
Kuranthankodu Block Office,
Kuranthankodu,
Kanyakumari District.

3.The Executive Officer,
Thingalnager Selection Grade Town Panchayat,
Thingalnager, Neyyoor Post,
Kanniyakumari District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in Na.Ka.No.352/2022/A2, dated 09.03.2024 quash the same and consequently direct the 3rd respondent to accept petitioner payment of 5 percent of GST amount Rs.1,80,600/- and 1 percent of income tax amount Rs.36,120/- along with license amount (Rs.36,23,002/- + 5 percentage).

For Petitioner : Mr.T.Wins

For Respondents : Mr.T.Villavankothai,
Addl. Government Pleader.

ORDER

Heard both sides.

2.The petitioner took part in the public auction conducted by the local body and was issued with license for collecting charges from the users of the daily and weekly market. The license is for a period of three years. The first year is already over. In the agreement entered into between the parties, it had been wrongly mentioned that GST payable by the petitioner was 5%. It was a typing mistake. The audit subsequently pointed this out. Thereupon, the local body woke up and informed the petitioner that he should pay GST at the correct rate. It means that for the first year, the petitioner has to pay the balance amount at the rate of 13% and for this year and the next year, he has to pay at the rate of 18%. The impugned order is a mere reiteration of this demand. It is put to challenge in this writ petition.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4.I am not however impressed by the same. I wanted to know if the GST rate cited by the respondents is incorrect. The learned counsel for the petitioner is not in a position to demonstrate that the respondents have wrongly quoted the rate. Therefore, I am not in a position to interfere with the impugned order. The petitioner cannot take advantage of a typing mistake in the agreement. There is no question of estoppel in this regard. There cannot be estoppel against statute. When the petitioner is obliged to pay 18% GST, he has to necessarily pay the same. This burden cannot be shifted to the local body.

5.Even though the time limit stipulated in the impugned communication has expired, I grant two more weeks from the date of receipt of a copy of this order. Upon the petitioner paying the correct GST amount, his license shall be extended.

6.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

12.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

To:-

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Block Development Officer,
Kuranthankodu Block Office,
Kuranthankodu,
Kanyakumari District.

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