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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.17049 of 2024
and
W.M.P.(MD) No.14670 of 2024

Tvl.T.Selvam ... Petitioner

/vs./

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Chennai 600 009.

2.The State Tax Officer (ST),
Pudukottai -3 Assessment Circle,
State Tax Division,
Pudukkottai.

3.The State Tax Officer (Inspection III),
O/o. Joint Commissioner (ST) (Int),
Trichy.

4.The Executive Officer,
Keeranur Town Panchayat,
GSTIN 33CHET11353G1DA
1, Bus Stand Road,
Keeranur Post, Kulathur Taluk,
Pudukkottai 622 502.

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5.The Executive Engineer,
Public Works Department,
GSTIN 33CHEP03618G1DF
PWD Buildings Construction Division,
Aranthangi, 1st Floor, New Palace Road,
Pudukkottai 622 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the Respondent No 4 and 5 and his subordinates to implement and follow the Government Order in G.O.Ms.No.114 of Commercial Taxes and Registration Department dated 22.07.2022 scrupulously in its letter and spirit and consequently direct the respondent No 4 and 5 to pay Goods and Service Tax at the rate of 18% on the bills claimed on and after 18.07.2022 to the petitioner forthwith.

For Petitioner : Mr.N.Sudalaimuthu

For R1 to R3 : Mr.J.K.Jayaselan
Government Advocate

For R4 & R5 : Mr.C.Satheesh
Government Advocate

ORDER

The petitioner has filed this writ petition for a Mandamus to direct the respondents 4 and 5 to implement and follow the Government Order in G.O.Ms.No.114, Commercial Taxes and Registration Department, dated

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22.07.2022 scrupulously in its letter and spirit and consequently direct the respondents 4 and 5 to pay GST at the rate of 18% on the bills claimed on and after 18.07.2022 to the petitioner forthwith.

2.The petitioner is a Government contractor, who is providing works contract services to the respondents 4 and 5. It is submitted that the rate of tax on the works contract has been increased to 18% with effect from 14.07.2022 vide Notification No.03/2022-CT (R) dated 13.07.2022 and vide Notification issued by the State Government in G.O.Ms.No.114, Commercial Tax and Registration Department, dated 22.07.2022.

3.It is submitted that the respondents 2 and 3 on the other hand are insisting that the petitioner should discharge the enhanced rate of tax at 18% and have now issued the notice in DRC 01A on 18.03.2024. It is submitted that the respondents 2 and 3 may issue a notice in DRC 01 and thereafter proceed to adjudicate the demand in which case the petitioner will be left with no remedy.

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4.Having considered the submissions made by the learned counsel for the petitioner, learned Government Advocate for the respondents 1 to 3 and the learned Government Advocate for the respondents 4 and 5, this Writ Petition is disposed of at the time of admission after dispensing with the requirement of filing of counter on behalf of the respondents, as no adverse orders are proposed to be passed at this stage against the respondents.

5.Suffice to state that the respondents 4 and 5 shall consider the petitioner's representation positively as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order, so that the petitioner is not put to any inconvenience by the respondents 2 and 3.

6.The respondents 2 and 3 may however proceed to issue DRC 01. They shall however await for a period of six weeks for the respondents 4 and 5 to dispose of the petitioner's representation and thereafter pass orders, as the petitioner is only a provider of service and GST being an indirect tax, the incidence of of tax has to be borne by the recipient, namely the respondents 4 and 5.

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7.The Writ Petition stands disposed of with the above liberty. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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