BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.18241 of 2024
and
W.M.P(MD).No.15531 of 2024

Tvl.S.V.Perumal,
Civil Contractor. ... Petitioner

Vs.

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

2.The Assistant Commissioner (ST),
Pudukottai-1 Assessment Circle,
State Tax Division, Pudukkottai.

3.The State Tax Officer (Adjudication -I),
O/o. Joint Commissioner (ST) (Intelligence),
Trichy.

4.The Executive Officer,
Ponnamaravathy Town Panchayat,
GSTIN:33MRIE00251G1DC,
1, Main Road, Ponnamaravathy,
Pudukottai – 622 407.

5.Thanjavur Smart City Limited,

GSTIN 33AAGCT1450J1DQ,
Arignar Anna Kalaiyarangam, Annasalai,
Thanjavur – 613 001.

6.The Block Development Officer,
Panchayat Union,
GSTIN 33CHEP07165D1DC,
Thirumayam – 622 001.

7.The Executive Officer,
Peravurani Town Panchayat (SG),
GSTIN 33CHET1288C1D6,
15, Pudhu Road, Peravurani Town Panchayat,
Pudukottai District – 614 804.

8.The Project Officer,
DRDA Pudukottai,
GSTIN 33CHEP06911C1DL,
109/305/00378, Kattupudukkulam,
Pudukkottai – 622 001.

9.District Rural Development Agency, Thanjavur,
GSTIN: 33CHED03105E1DI,
250, 2nd Floor, District Collector Office,
Trichy Main Road, Thanjavur – 613 402. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondent Nos.4 to 9 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 an consequently direct the respondent Nos.4 to 9 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.Sudalai Muthu

For respondents : Mr.R.Suresh Kumar
Additional Government Pleader for R1, R3, R5 to R9
Ms.D.Farjana Ghoushia
Additional Government Pleader for R4
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ORDER

This Writ Petition is taken up for disposal, at the time of admission after dispensing with the notice to the respondents 2 to 9 as no adverse orders are proposed to be passed either against the petitioner or against the respondents.

2. The petitioner appears to be a Government Contractor, who had entered into contracts with the respondents 4 to 9, prior to the issuance of Notification No.3/2022-CT(R) 13.07.2022.

3. It appears that under the contracts signed with the respondents No.4 to 9, the GST component that has been agreed with to be reimbursed 12% and since the rate of tax has been increased to 18% in terms of Notification No.3/2022-CT(R) dated 13.07.2022, the petitioner is unable to pay tax at 18%.

4. The learned counsel for the petitioner submits that the petitioner has paid

tax at 12% so far.

5. It is submitted that the petitioner has also sent several representations to the respondents 4 to 9. However, it did not evoke any response.

6. The learned counsel for the petitioner submits that the petitioner has now received notice in DRC 01A dated 28.01.2023 from the third respondent, which has now been followed by notice in GSTR 01 dated 16.03.2024.

7. The learned counsel further submits that the third respondent has also now issued personal hearing notice dated 27.06.2024 threatening to confirm the demand.

8. In my view, the petitioner is entitled to temporary reprieve as the petitioner is being forced to pay the tax contrary to the agreement in view of the statutory intervention by way of amendment to the increase in prescribed rate of tax from 12% to 18% *vide* Notification No.3/2022-CT(R) dated 13.07.2024.

9. Under similar circumstances also, this Court had come to the rescue of the similar contractors in the case of ***Vediappan vs. Secretary to Government reported in [2023] 156 taxmann.com 324 (Madras)*** and in the case of ***M.Murugesan vs. The Secretary to Government and others in W.P.(MD)Nos. 9095 & 13587 of 2023 dated 25.06.2024***.

10. Considering the same, there shall be a positive direction to the respondents 4 to 9 to consider the respective representation dated 11.07.2024 of the petitioner within a period of three months from today.

11. Under these circumstances, all further proceedings under the provisions of respective GST enactments shall be kept in abeyance for a period of four months from today.

This Writ Petition is allowed, with above directions. No costs. Consequently, connected W.M.P. is closed.

Index : Yes / No **01.08.2024**
Internet : Yes / No
apd
To
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C.SARAVANAN, J.

apd

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