BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.18250 of 2024
and
W.M.P.(MD)No.15541 of 2024

M/s.Lucky Associates,
Represented by its Managing Partner J.Jameem Banu. ... Petitioner

Vs.

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

2.The Assistant Commissioner (ST),
K.K.Nagar Circle,
Commercial Taxes Buildings,
Dr.Thangaraj Road,
Madurai – 25020.

3.The Chairman,
Tamil Nadu Housing Board Corporation,
CMDA Complex,
E&C Market Road, Koyambedu,
Chennai – 600 107.

4.The Chief Engineer (Rural),

Tamil Nadu Housing Board,
6th Floor, CMDA Complex,
E&C Market Road, Koyambedu,
Chennai – 600 107. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondent Nos.3 and 4 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 and their own Board Resolution No.5.12 dated 23.06.2023 scrupulously in its letter and spirit and consequently, direct the respondent No.4 to pay Goods and Service Tax at the rate of 18% on the bills claimed from 01.07.2017 along with interest and penalty as contemplated under Tamil Nadu Goods and Service Tax Act, 2017 by considering the petitioner's representations dated 24.06.2024 and 19.07.2024 to the petitioner forthwith.

For petitioner : Mr.N.Sudalaimuthu

For respondents : Mr.R.Suresh Kumar
Additional Government Pleader for R1 & R2
Mr.R.Sivakumar
Standing Counsel for R3 & R4

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ORDER

Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 and 2 and the learned Standing

Counsel for the respondents 3 and 4.

2. The petitioner has filed this Writ Petition to direct the respondent Nos.3 and 4 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 and their own Board Resolution No.5.12 dated 23.06.2023 scrupulously in its letter and spirit and consequently, direct the respondent No.4 to pay Goods and Service Tax at the rate of 18% on the bills claimed from 01.07.2017 along with interest and penalty as contemplated under Tamil Nadu Goods and Service Tax Act, 2017 by considering the petitioner's representations dated 24.06.2024 and 19.07.2024 to the petitioner forthwith.

3. The relevant Board resolution reads as under:

TAMILNADU HOUSING BOARD

Board's Resolution No.5.12 Dated: 23.06.2023

Tamil Nadu Housing Board – Technical Cell – Goods and Services Tax Act – Works Contract – Notification issued Changes to be made in GST rates from 12% to 18% - subject placed before the board for adoption – Regarding.

(File No. Technical Cell.4/19013/2023)

The Board resolved to adopt the notification issued from Ministry of Finance (Department of Revenue), 18% GST rates, instead of 12%, for construction of all saleable projects with effect from 01.07.2017 and for Government Schemes and Board owned Buildings with effect from 18.07.2022.

4. The petitioner appears to be a Government Contractor, who is engaged in providing services to the Government for their own use and for purchase, which are saleable.

5. In this context, in the light of the clarification issued by the Board/third respondent, the petitioner is requesting the respondents 3 and 4 to reimburse/pay the total tax at 6% over and above 12% already quoted in the agreements with the respondents 3 and 4.

6. The learned Additional Government Pleader for the respondents 3 and 4 submits that the petitioner's representation dated 24.06.2024 and 19.07.2024 will be considered and disposed of on merits and in accordance with law within a period of six weeks from today.

7. Since the second respondent has issued notice in DRC 01 dated 23.05.2024, the second respondent is directed to keep further proceedings in abeyance for a period of six weeks from today.

This Writ Petition is disposed of, with above directions. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

01.08.2024

To

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

2.The Assistant Commissioner (ST),
K.K.Nagar Circle,
Commercial Taxes Buildings,
Dr.Thangaraj Road,
Madurai – 25020.

C.SARAVANAN, J.

apd

W.P.(MD) No.18250 of 2024

01.08.2024