



W.P.(MD) No.18003 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.18003 of 2024
and
W.M.P.(MD)No.15421 of 2024**

Tvl.J.F.Javid Hussain,
Government Civil Contractor.

... Petitioner

Vs.

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

2.The State Tax Officer,
South Avani Moola Street Circle,
Commercial Taxes Buildings,
Dr.Thangaraj Road,
Madurai – 25020.

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

4.The Chief Engineer (Rural),
Tamil Nadu Housing Board,



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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 Tamilnadu Goods and Services Tax Act, 2017 by considering the petitioner's representation dated 24.06.2024 and 19.07.2024 to the petitioner forthwith.

For petitioner : Mr.M.Sudalaimuthu

For respondents : Mr.J.K.Jayaselan

Government Advocate for R1 & R2

M/s.Dolovincy for

Mr.Siva Kumar, Standing Counsel for R3 & R4

ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner, the learned Government Advocate for the respondents 1 and 2 and learned counsel for the respondents 3 and 4.

2. The petitioner is a private entity, who is engaged in providing services to



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Government projects like Tamil Nadu Housing Board Corporation and to various other entities.

3. According to the petitioner, the petitioner is also providing supplies and services to private entities in connection with the sale of housing plots and build up houses.

4. It is submitted that the petitioner has contracted with the respondents 3 and 4, in terms of which, the respondents are reimbursing GST at 12%, whereas the tax payable by the petitioner for the Government contracts is 18%.

5. Under these circumstances, the petitioner has sent a representation to the respondents 3 and 4 on 24.06.2024 and 19.07.2024 to follow a Government Order in G.O.(Ms)No..114, Commercial Taxes and Registration (B1) Department dated 22.07.2024 and their own resolution No.5.12 dated 23.06.2023.

6. The submission of the petitioner is that the petitioner's representation to the respondents 3 and 4 deserves attention in the light of G.O.(Ms).No.114 of the



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Commercial Taxes and Registration (B1) Department, dated 22.07.2024.

7. That apart, the GST is an indirect tax and incidence of such tax has to be borne by the recipients and therefore, the petitioner, as a service provider cannot be expected to bear incidence of tax.

8. Having considered the submissions of the learned counsel for the petitioner, learned Government Advocate for the respondents 1 and 2 and the learned Standing Counsel for the respondents 3 and 4, this Writ Petition is disposed of. There shall be a positive direction to the respondents 3 and 4 to consider the petitioner's representations dated 24.06.2024 and 19.07.2024 as expeditiously as possible within a period of 30 days from the date of receipt of a copy of this order, in the light of G.O.(Ms).No.114 of the Commercial Taxes and Registration (B1) Department, dated 22.07.2024.

9. Pending such exercise, the respondents 1 and 2 shall keep all the recovery proceedings pursuant to the press release in abeyance for a period of two months from the date of receipt of a copy of this order.



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This Writ Petition is disposed of, with above directions. No costs.

Consequently, connected miscellaneous petition is closed.

Index : Yes / No

Internet : Yes / No

apd

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To

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Commercial Taxes and Registration Department,
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2.The State Tax Officer,
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C.SARAVANAN, J.

apd

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