



W.P.(MD) No.25132 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.25132 of 2022

and

W.M.P.(MD) Nos.19226 & 19227 of 2022

T.Krishnan,
PWD Contractor,
S/o. Thangamuthu,
No.1/E4/12/5,Malligai Street,
Sontosh Nagar,P&T Nagar,
Madurai-625 017.

... Petitioner

Vs.

- 1.The Government of India,
Represented by its Secretary,
Ministry of Finance,
New Delhi-110 001.
- 2.The Deputy Commissioner of CGST & Central Excise,
Madurai-II Division,
No.5, V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai-625 002.
- 3.The Superintendent,
O/oThe Assistant Commissioner of CGST & Central Excise,
Madurai-I Division,
No.5, _V.P.Rathinasamy Nadar Road,



W.P.(MD) No.25132 of 2022

WEB COPY

Bibikulam,
Madurai-625 002.

4.The Government of Tamil Nadu
Represented by its Secretary,
Department of Finance,
St.George Fort,
Chennai-600 009.

5.The Government of Tamil Nadu
Represented by its Secretary,
The Department of Public Works Department,
St.George Fort,
Chennai-600 009.

6.The Chief Engineer(PWD)
Public Works Depart,
Southern Range – Madurai,
Madurai-625 002.

.....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the impugned Notification No.6/2015- Service Tax dated 01.03.2015 published in Government of India Gazette Extraordinary Part II section 3, sub-section(i) No. 120 on 01.03.2015 and quash the same and all orders/ proceeding issued pursuant to the same and consequently 1st Respondent to grant exemption for us from paying the service tax in respect of the works contract service other than commercial nature to the Government, local bodies, statutory authorities etc., with effect from 01.04.2015 OR alternatively,



W.P.(MD) No.25132 of 2022

WEB COPY

In the event of this Hon'ble Court upholding the impugned notification, to issue Writ of Mandamus directing Respondents 4 to 6 to pay either to us or directly to the 2nd Respondent, the service tax, interest and penalty if any thereon that may be demanded by the Respondents 1 and 2 in respect of the works contract service other than commercial nature to the Government of Tamil Nadu, with effect from 01.04.2015 to 30.06.2017 and pass such orders.

For Petitioner : Mr.Raja Karthikeyan

For R1 : Mr.V.J.Kumaravel
Special Panel Counsel

For R2 and R3 : Mr.N.Dilip Kumar
Senior Panel Counsel
Asst. by Mr.K.Prabhu
Junior Panel Counsel

For R4, R5 & R6 : Mr.J.K.Jayaselan
Government Advocate

ORDER

The petition has been filed without challenging the assessment order passed by the second respondent on 24.08.2022. In any event, the issue on the tax liability of the petitioner, now stands confirmed by the decision of this Court in the case of *Raju Constructions and others vs.The Government of India and others* reported in (2022) (1) Centax 251 Mad.



W.P.(MD) No.25132 of 2022

WEB COPY

2. Therefore, the only option available to the petitioner is to ask the employer, namely, the respondents 4, 5 and 6 to reimburse the tax payable by the petitioner by invoking the principle similar to the one under Section 64(A) of the Sales of Goods Act, 1930.

3. Considering the same, the Writ Petition is disposed of by directing the petitioner to file suitable representations to the respondents 4, 5 and 6 to reimburse the Service Tax payable by the petitioner. If such representation is filed to the respondents 4, 5 and 6 may consider the same and pass appropriate orders keeping in mind the decision rendered in ***Raju Construction***'s case (cited supra).

4. Considering the same, this Writ Petition stands disposed of, with above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

24.04.2024



W.P.(MD) No.25132 of 2022

WEB COPY

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WEB COPY



W.P.(MD) No.25132 of 2022

C.SARAVANAN, J.

apd

W.P.(MD) No.25132 of 2022

24.04.2024