



W.P.(MD) Nos.21577, 21578 & 21581 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) Nos.21577, 21578 & 21581 of 2017
and
W.M.P.(MD)Nos.17847, 17848, 17584 & 17583 of 2017**

In W.P.(MD)No.21577 of 2017:

M/s.Our Land Engineering Works Pvt. Ltd.,
Represented by its Director,
No.70/1, First Floor,
Anjugam Nagar Third Street,
Jaffarkhanpet,
Chennai – 600 083.

... Petitioner

Vs.

The Thoothukudi City Municipal Corporation,
Represented by its Commissioner,
Tuticorin.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings in Na.Ka.No.H3/1809/2017 dated 12.05.2017 and quash the same and direct the respondent herein to forthwith pay the petitioner the amounts recovered from the petitioner pursuant to the said impugned order together with interest @ 18% p.a from the date of the respective deductions and



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forbear the respondent from effecting any further deductions from the accepted rate for the said work.

For petitioner : Mr.M.Sricharan Rangarajan
Senior Counsel for
Mr.M.Karthikeyan

For respondent : Mr.N.Ananda Kumar
Standing Counsel

In W.P.(MD)No.21578 of 2017:

M/s.Our Land Engineering Works Pvt. Ltd.,
Represented by its Director,
No.70/1, First Floor,
Anjugam Nagar Third Street,
Jaffarkhanpet,
Chennai – 600 083.

... Petitioner

Vs.

The Thoothukudi City Municipal Corporation,
Represented by its Commissioner,
Tuticorin.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings in Na.Ka.No.H3/1809-3/2017 dated 20.09.2017 of the respondent herein and quash the same and consequently, forbear the respondent, his men, servants, agents or anyone claiming under them from any manner making any deductions towards variation in price of diesel from the petitioner for the work of collecting, transporting the garbage (Municipal Solid Waste) from ward No.12,21,24,26,40 and 41 of the Tuticorin Municipal Corporation.



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For petitioner : Mr.M.Sricharan Rangarajan
Senior Counsel for
Mr.M.Karthikeyan

For respondent : Mr.N.Ananda Kumar
Standing Counsel

In W.P.(MD)No.21581 of 2017:

M/s.Our Land Engineering Works Pvt. Ltd.,
Represented by its Director,
No.70/1, First Floor,
Anjugam Nagar Third Street,
Jaffarkhanpet,
Chennai – 600 083.

... Petitioner

Vs.

The Thoothukudi City Municipal Corporation,
Represented by its Commissioner,
Tuticorin.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings in Na.Ka.No.H1/163/2015 dated 14.07.2017 and quash the same and direct the respondent herein to forthwith pay the petitioner the amounts recovered from the petitioner pursuant to the said impugned order together with interest @ 18% p.a from the date of the respective deductions and forbear the respondent from effecting any further deductions from the accepted rate for the said work.



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For petitioner : Mr.M.Sricharan Rangarajan
Senior Counsel for
Mr.M.Karthikeyan

For respondent : Mr.N.Ananda Kumar
Standing Counsel

COMMON ORDER

By this common order, these three Writ Petitions have been disposed of.

2. In all the three Writ Petitions, the petitioner has challenged the deductions made by the respondent towards Service Tax component and diesel for the service rendered by the petitioner to the respondent/the Thoothukudi City Municipal Corporation.

3. The counter filed by the respondent indicates that there was no mistake committed by the petitioner and that there was no mistake in the amount arrived at towards the service charges. However, the deductions were made in view of the objections raised by the Audit Department.



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4. In the respective Writ Petitions, the respondents have stated as follows:

W.P.(MD)No. 21577/2017	When matters are so, the Accountant General Audit team while auditing various activities of this Corporation, has raised an objection in general with regard to the provisions of 0.3% towards workers welfare fund in the estimate and that provision of 5% in the estimate towards service tax is not in order, for package No.III.
W.P.(MD)No. 21578/2017	However taking into account the A.G.Audit slip raised in this regard orders of recovery was issued to all the above four contractors and the 10% excess payment alleged to have been paid was deducted from the contractors.
W.P.(MD)No. 21581/2017	In the meantime taking into account the objections raised by the AG's office Chennai recovery proceedings was ordered in reference H1/163/2017 dated 14.07.2017 for recovery of Rs.9,80,519/- at the rate of Rs.1,63,420/- in six instalments commencing from the payment for the month of April 2017 to September 2017 and recovery from the bill was also effected.

5. Thus, the deductions that have been made for the service rendered by the petitioner in Ward Nos.12,21,24,26,40,41 and Ward Nos. 3,5,17,18,34,48,49,54,55,57 is unjustified.

6. For the service rendered by the petitioner and for the delay caused on account of the Audit objections, the petitioner cannot be deprived of the interest on which the petitioner would have earned from the money that was given to the respondent.



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7. Considering the same, the Court is inclined to direct the respondent to pay interest of 15% as per Clause 18.2 of the agreement to the petitioner for the delay payment. The payment shall be made within three months from the date of receipt of a copy of this order.

Accordingly, these Writ Petitions are allowed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

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C.SARAVANAN, J.

apd

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