HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MAIN CASE No: **W.P.No.14632 of 2022**

PROCEEDING SHEET

Sl. No.	DATE	ORDER	OFFICE NOTE
	13-02-2025	**TVK,J** **I.A.No.1 of 2024** This application is filed to review the order dated 15-04-2024 passed in W.P.No.14632 of 2022. Heard learned counsel for petitioner at length and Sri Ravi Mahender, learned Standing Counsel appearing on behalf of respondents, and perused the record. By the present Interlocutory Application, petitioner seeks review of the order of this Court on the ground that the tender issued by the respondent authorities only provides for reimbursement of ESI & EPF and does not provide for reimbursement of GST and as such, Tender issued is illegal and arbitrary. It is the further case of the petitioner that this Court without taking note of the aforesaid fact, had passed the order under Review, and thus, prays that the order be reviewed. However, it is to be noted that the Hon'ble Supreme Court in ***Northern India Caterers (India) Limited Vs State (UT of Delhi)***[1] had observed that review proceeding cannot be equated with original hearing of the case.	Transferred to the I.O. folder before making corrections

[1] (1980) 2 SCC 167

Further, in a recent decision, the Hon'ble Supreme Court in ***Sanjay Kumar Agarwal Vs. State Tax Officer (1) and another***[2] had laid down the scope of Review as under:

"(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

(ii) *A judgment pronounced by the court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.*

(iii) *An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.*

(iv) *In exercise of the jurisdiction under Order 47 Rule 1CPC, it is not permissible for an erroneous decision to be "reheard and corrected".*

(v) *A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".*

(vi) *Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.*

(vii) *An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.*

(viii) *Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review."*

The order, review of which is sought for, does not fall in any of the aforesaid categories laid down by the Hon'ble Supreme Court.

Though, on behalf of the petitioner it was sought to be contended that if the respondent authorities are permitted to issue tender without providing for the element of GST separately, the same would result in loss to the tenderers, it is to be noted that while the liability to pay Service Tax/GST component on the amount of service

[2] (2024) 2 SCC 362

fee received and not for the amounts which are paid as salary as no GST/Service Tax can be levied in the salary paid to employees engaged by the tenderer and that by itself cannot be a ground to lay a challenge to the tender issued.

Further, it is also to be noted that if the authorities seeks to claim GST, the said action of the respondents is required to be assailed and for that reason, the petitioner cannot file a Writ Petition to hold the tenders issued by respondents to be illegal or contrary to law.

Further, mentioning of ESI & EPF separately and non-mention of GST separately by itself in Tender issued would not make the tender issued invalid, as it is for the tender issuing authority to specify as to whether the price quoted is to be inclusive or exclusive of certain levies/taxes.

In view of the above, the impugned order dated 15-04-2024 passed in W.P.No.14632 of 2022 neither suffers from any infirmity or suffer from any error apparent on the face of record warranting review of the said order.

Accordingly, this application is dismissed.

13-02-2025
Vsv

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