IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.5662 of 2024
and
W.M.P.No.6268 of 2024

M/s.Aarthi Enterprises,
represented by its Partner Mrs.G.Mythili
No.1, Chelliamman Colony,
Second Street, Peravallur,
Chennai - 600 082. ... Petitioner

vs.

1.Southern Railways,
represented by the General Manager,
Chennai - 600 003.

2.Senior Divisional Manager,
Divisional Office, Commercial Branch,
Southern Railway,
Chennai - 600 003.

3.Deputy Chief Labour Commissioner (Central),
No.4, Haddows Road,
Shastri Bhavan,
Chennai - 600 006. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents 1 and 2 to pay and settle all the dues to the petitioner based on the petitioner's representation dated 29.01.2021 that contains detailed calculation without insisting for no due certificate and with consultation of the third respondent in the event of any doubt regarding reconciliation of the claim made by the petitioner within the time frame to be stipulated by this Court.

For Petitioner	: Mr.P.Wilson, Senior Counsel for Mr.T.S.Rajamohan
For Respondents	: Mr.Venkataswamy Babu Senior Panel Counsel

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ORDER

This writ petition has been filed seeking issuance of a writ of mandamus directing the respondents 1 and 2 to settle the dues to the petitioner based on the representation made by the petitioner on 29.01.2021 without insisting for no due certificate.

2. When this writ petition came up for hearing on 07.07.2025, this Court passed the following order:

> "This Court heard Mr.P.Wilson, learned Senior Counsel appearing for the petitioner and Mr.Venkataswamy Babu, learned Senior Panel Counsel appearing for respondents 1 and 2.
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> 2. This Court took into consideration the earlier order passed by the Hon'ble First Bench in W.A.No.865 of 2020 dated 20.01.2021 wherein the Division Bench has clarified with respect to the amounts payable to the petitioner.
>
> 3. Learned Senior Counsel appearing on behalf of the

petitioner submitted that as on date, a total sum of Rs.4,35,59,683.10 is payable to the petitioner. In order to substantiate this submission, learned Senior Counsel apart from relying upon the documents filed in the paper book, for ease of understanding, also furnished the memo of calculation before this Court.

4. On carefully going through the same, it is seen that insofar as EPF and ESI amount covering 16 MRTS stations is concerned, a total of Rs.3,01,12,484.31 is payable to the petitioner. Insofar 14 stations covering Tambaram section towards the very same head is concerned, a sum of Rs.5,25,91,329.10 is payable to the petitioner. For this purpose, the petitioner already furnished the month wise, station wise, labour wise proof of payment for enhanced ESI/EPF contribution made for employees, who were deployed in the contract awarded to the petitioner. Apart from the above, the petitioner also furnished the no due certificate from the concerned departments. Apart from the above payments, the Southern Railway is also liable to settle two months final bill to the petitioner to the tune of Rs.50,00,000/-. Earlier, the petitioner was informed that this amount will be settled to the petitioner only if the petitioner provides all the particulars regarding the proof of payment of ESI and EPF. Now that the petitioner has provided all the details, the petitioner is insisting for the payment of Rs.50,00,000/- towards two months final bill.

5. Apart from the above, a sum of Rs.69,00,000/- is payable to the petitioner towards security deposit.

6. The petitioner is also claiming for interest at the rate of 8% p.a. from 29.01.2021.

7. Learned Senior Panel Counsel appearing for respondents submitted that the petitioner is liable to furnish the details regarding payment of GST and service tax. Therefore, the Southern Railway is not in a position to clear the dues.

8. In the considered view of this Court, this case has been going on from the year 2019 onwards and at some stage, payments will have to be made to the petitioner. The amount payable to the petitioner also looks exorbitant. Therefore, learned

Senior Counsel appearing for the petitioner shall take instructions with regard to the payment of GST and service tax amount and furnish necessary particulars before this Court. Learned Senior Panel Counsel shall also take instructions from the Southern Railway with respect to the settlement of amount to the petitioner to the tune of Rs.4,35,59,683.10 and the interest claimed by the petitioner.

Post this writ petition under the caption 'for orders' on 16.07.2025."

3. The writ petition was thereafter posted for hearing on 16.07.2025 and the respondents 1 and 2 filed their counter affidavit.

4. The case was again listed on 28.07.2025 and the learned counsel for the petitioner filed a memo. For proper appreciation, the memo filed by the petitioner is extracted hereunder:

"MEMO FILED REGARDING GST ISSUE

1. It is submitted that the assessment order GST for the year 2019/2020 was challenged in W.P.No.39058 of 2024 by the petitioner. The same was allowed on 12.06.2025 by Hon'ble Mr.Justice Mohammed Shafiq on merits.

2. The common question of law that arose in the above case was whether the government has power to extend the time limit for passing orders U/s.168(A) of the CGST Act, 2017.

3. It is further submitted that so far as the assessment order under GST for the year 2020-2021, the writ petitioner filed W.P.No.19955 of 2025 before this Hon'ble Court. Interim stay was granted on condition that the petitioner shall pay 10% of the disputed tax. The same was complied on 22.06.2025. The above writ petition is pending sub-judice. The writ petitioner

shall abide by the final orders to be passed in W.P.No.19955 of 2025.

4. It is submitted that in view of the afore mentioned facts the claim of the railways that the GST issue is pending resolution is not correct. Still the writ petitioner shall comply with the orders of this Hon'ble Court and pay the GST upon the final orders to be passed in the above W.P.No.19955 of 2025."

5. Taking note of the above memo filed by the petitioner, this Court directed the learned Senior Panel Counsel to take instructions and directed the matter to be listed for hearing today.

6. This Court heard Mr.P.Wilson, learned Senior Counsel appearing on behalf of the petitioner and Mr.Venkataswamy Babu, learned Senior Panel Counsel appearing for respondents.

7. On carefully considering the submissions made by either side, there are only two issues which are detaining the Southern Railway from settling the amount due and payable to the petitioner. The first issue pertains to the no due certificate that has to be issued by the ESI-EPF departments. The second issue pertains to the no due certificate that has to be issued by the GST Council.

8. Insofar as the first issue is concerned, the learned Senior Counsel appearing for the petitioner pointed out to page Nos.340 and

341 of the paper book. On carefully going through these documents, it is seen that the ESI and EPF departments have issued no due certificate and this information has been given to the Southern Railway stating that there are no dues payable by the petitioner.

9. Learned Senior Panel Counsel appearing for respondents submitted that the no due certificate issued by the ESI and EPF departments does not provide all the particulars and a blanket certificate has been given.

10. In the considered view of this Court, the period of the contract was from February'2017 to February'2020. The ESI and EPF pertains to this period. The EPF and ESI departments have given no due certificate and they informed Southern Railway that there is no amount due and payable by the petitioner for the entire period. Therefore, these certificates are sufficient for the Southern Railway to act upon.

11. The next issue pertains to the no due certificate to be issued by the GST Council.

12. On carefully going through the memo filed on the side of the petitioner, it is seen that the assessment of GST for the year 2019-2020 was challenged before this Court in W.P.No.39058 of 2024 and this writ petition was allowed by order dated 12.06.2025. Insofar as the assessment of GST for the year 2020-2021 is concerned, the petitioner has filed W.P.No.19955 of 2025 and this writ petition has been entertained and an interim order has been passed with a condition that the petitioner should pay 10% of the disputed tax. This condition has been complied with and the matter is pending sub-judice.

13. Learned Senior Panel Counsel submitted that the petitioner has received a sum of Rs.2,26,06,212/- from the railways towards GST and hence, the same has to be deposited with the GST Council and a no due certificate must be submitted by the petitioner.

14. In the considered view of this Court, the issue regarding the assessment order under GST pertaining to the year 2020-2021 is already sub-judicie in W.P.No.19955 of 2025. If ultimately, the petitioner succeeds in the pending writ petition, whatever amount was received by

the petitioner towards GST will have to be refunded to the Southern Railways. If ultimately, the writ petition ends in dismissal, the petitioner has to make necessary payment to the GST Council and get the no due certificate and submit the same to the Southern Railways. If this process is adopted, it sufficiently safeguards the interest of both the petitioner as well as the Southern Railway. Hence, this issue need not detain the Southern Railway from settling two bills and the security deposit payable to the petitioner.

15. In the light of the above discussion, there shall be a direction to the respondents 1 and 2 to settle the entire amount payable to the petitioner towards security deposit to the tune of Rs.68,16,788/- and the two bills to the tune of Rs.48,85,460/-. This payment shall be made to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order. The claim made by the petitioner for reimbursing the amount incurred towards payment of ESI and EPF to the tune of Rs.63,47,886/- is concerned, the petitioner shall provide all the particulars to the respondents 1 and 2 with all the details of the employees and on verification of the same, the said amount shall be disbursed to the petitioner. The petitioner shall also submit an

undertaking before the respondents 1 and 2 that ultimately, subject to the final result in the writ petition challenging the assessment order under GST, if it completely ends in favour of the petitioner, they will refund the entire amount collected from the Southern Railway towards GST and if it ends in dismissal, the petitioner will pay the entire amount to the GST Council and produce the no due certificate before the respondents 1 and 2.

This writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

06.08.2025

Neutral Citation: Yes/No
Index: Yes/no
Speaking Order/Non-Speaking Order
gm

N.ANAND VENKATESH, J

gm

To

1.The General Manager,
Southern Railways,
Chennai - 600 003.

2.Senior Divisional Manager,
Divisional Office, Commercial Branch,
Southern Railway,
Chennai - 600 003.

3.Deputy Chief Labour Commissioner (Central),
No.4, Haddows Road,
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