IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:26.03.2025

Coram:

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.10979 and 10982 of 2025
and
W.M.P.Nos.12385 and 12387 of 2025

W.P.No.10979 of 2025:

Sri Balaji Agency
Represented by its Partner,
Mr.R.Muthusamy,
7/13, 3rd Cross Street,
VN Nagar, Trichy 620 002. .. Petitioner

/versus/

Bharat Sanchar Nigam Limited,
Represented by its Chief General Manager (Telecom)
No.16, Greams Road,
Chennai 600 006. .. Respondent

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to forthwith pay all outstanding statutory dues of the petitioner firm, including but not limited to EPF, ESI and GST, directly to the respective statutory authorities and to reimburse the petitioner for the statutory dues already paid by its to the extent such dues were liable to be paid by the respondent and/or pass such further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

For Petitioner :Mr.M.Suhrith Parthasarathy
for Mr.B.Prashanth Nadaraj
For Respondent :Mr.S.Udayakumar, BSNL

W.P.No.10982 of 2025:
Sri Balaji Agency
Represented by its Partner,
Mr.P.Kannan,
F1, 7/13, 3rd Cross Street,
VN Nagar, Trichy 620 002. .. Petitioner

/versus/

Bharat Sanchar Nigam Limited,
Represented by its Chief General Manager (Telecom)
No.16, Greams Road,
Chennai 600 006. .. Respondent

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to forthwith pay all outstanding statutory dues of the petitioner firm, including but not limited to EPF, ESI and GST, directly to the respective statutory authorities and to reimburse the petitioner for the statutory dues already paid by it, to the extent such dues were liable to be paid by the respondent and/or pass such further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

For Petitioner :Mr.M.Suhrith Parthasarathy
for Mr.B.Prashanth Nadaraj
For Respondent :Mr.S.Udayakumar, BSNL

COMMON ORDER

These writ petitions are filed for Mandamus directing the respondent to forthwith pay all the outstanding statutory dues of the petitioner-firm, including but not limited to the EPF, ESI and GST, directly to the respective statutory authorities and to reimburse the petitioner for the statutory dues already paid by the petitioner to the extent such dues were liable to be paid by the respondent.

2.The brief factual matrix in these cases arises is that the petitioner-firm was engaged supply of manpower to the respondent. During the years 2017-2021, the payment of most invoices raised by the petitioner-firm was withheld by the respondent due to certain dues. Ultimately, the matter was resolved by the order of this Court in W.P.Nos.34513 of 2019 batch etc., dated 28.04.2021. While deciding the issue, this Court, in sofar as the statutory dues are concerned, permitted the respondent to deduct the statutory dues payable by the petitioner to various authorities like the EPF, ESI and GST and directed that the dues can be paid directly to the statutory authorities.

3. The paragraph No.45 of the judgement is extracted hereunder for ready reference.

> "*45. Insofar as the statutory dues are concerned, the plea made by BSNL is accepted. Accordingly,they are permitted to deduct the statutory dues payable by these contractors to various authorities like, EPF, ESI and GST and these dues can be paid directly to those statutory authorities. It is made clear that, while making such payment by BSNL to various statutory authorities, the said payment shall be made only through the permanent account number maintained by each of the contractors not otherwise and due intimation shall be given to the contractors concerned that the statutory dues payable to various authorities with quantified amount and other details have been paid through the account number of the contractors and those details shall also be intimated then and there to the contractor concerned in writing".*

4. It is the case of the petitioner that subsequently the payments were yet to be released by the respondent to the statutory authorities. On account

of the same, the GST authorities would mulct the petitioner with penalty and interest. However, notice has been issued to the petitioner on 27.02.2025 to avail the benefit of the circular of the Government of India dated 15.10.2024. As per the same, if the amount is paid on or before 31.03.2025 as per the details mentioned thereunder, the penalty and interest will be waived. Therefore, the petitioner had approached this Court by way of these writ petitions. It is the prayer of the petitioner to direct the respondent to pay the dues immediately on or before 31.03.2025.

5. Mr.S.Udhaya Kumar, learned counsel, taking notice on behalf of respondent, would submit that even though this Court had earlier decided that the BSNL will retain the statutory dues including the GST, in view of the urgency, that is pleaded and since there are only two working days before 31.03.2025, the respondent pleads that the petitioner himself can avail the benefit of the circular and pay the entire tax and upon production of the receipt thereof, the same will be reimbursed by the respondent. The learned counsel appearing for the respondent would also submit that the

GST should be made as a party in respect of the tax for the financial year 2019-2020.

6. In respect of the other dues, this Court is not deciding the matter. I am of the view that when there is no dispute with reference to the amount and the notice issued by the GST is produced along with the typed set of papers, GST authorities need not be made as parties in the writ petitions. These Writ Petitions are disposed of on the following terms:-

(i)As per the notice dated 27.02.2025, the petitioner can pay the tax amount on or before 31.03.2025 to the appropriate authorities.

(ii)After payment, the petitioner shall produce the receipt to the respondent and upon production of the receipt, the respondent shall reimburse the amount, within a period of six weeks, from the date of the production of the receipt.

(iii)The parties shall act upon the web copy of the order without waiting for the certified copy of the order.

(iv)Consequently, connected Miscellaneous Petitions are closed. No costs.

26.03.2025

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Neutral citation:no

To:

The Chief General Manager(Telecom),
Bharat Sanchar Nigam Limited,
No.16, Greams Road,
Chennai 600 006.

D.BHARATHA CHAKRAVARTHY,J.

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