IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2025

CORAM
THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29819 of 2025

Devaki Constructions,
Rep. by its Partner,
Mr.V.Balakrishnan
S/o.Vasudevan,
No.1035/A, 2nd Floor,
JV Street, Sudhakar Nagar,
Villupuram, Tamil Nadu - 605 602. ... Petitioner

Vs.

1.The Director,
Rural Development and Panchayat Raj,
Panagal Building, Chennai - 600 015.

2.The Commissioner of Commercial Taxes,
Office of the Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 600 005.

3.The Deputy Commissioner (ST),
Commercial Tax Office,
Integrated Commercial Taxes Buildings,
Villupuram District Collectorate,
Master Plan Complex,
Villupuram - 605 602.

4.The Joint Commissioner,
Office of the Joint Commissioner (ST) (Intelligence),

No.1, Vallalar Nagar, Manjakuppam,
Cuddalore - 607 001.

5.The State Tax Officer-IV,
Office of the Joint Commissioner (ST) (Intelligence),
No.1, Vallalar Nagar, Manjakuppam,
Cuddalore - 607 001. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 2 to 5 from taking any actions against the petitioner's Company until the remaining 6% GST with interest and penalty has been paid to the petitioner's company by the first respondent.

For Petitioner : M/s.N.Lavanya

For Respondents 2 to 5 : Mr.C.Harsha Raj,
Special Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, forbearing the respondents 2 to 5 from taking any actions against the petitioner's Company until the remaining 6% GST with interest and penalty has been paid to the petitioner's company by the first respondent.

2. Mr.C.Harsha Raj, learned Special Government Pleader, takes notice on behalf of the respondents 2 to 5. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. Learned counsel for the petitioner submitted that in this case, the petitioner, Devaki Constructions, is a registered Government Contractor engaged in building and road construction works. The GST Council, in its 47th meeting held on 28th and 29th July, 2022, revised the GST rate for works contracts supplied to the Central or State Governments from 12% to 18%, effective from 18.07.2022. However, despite this revision, the first respondent continued to pay GST at the old rate of 12%. A tax inspection on 30.08.2024 led to a warning to the petitioner to pay GST at 18%, while the petitioner had not been reimbursed the differential 6% by the first respondent. On 26.02.2025, the fifth respondent vide his detailed proceedings had directed the petitioner to pay the entire 6% GST amount to them. Unless and otherwise, the first respondent remit the differential 6% of GST amount,

totalling Rs.4,15,69,890/-, the petitioner cannot remit any amount, as demanded by the respondents. Hence, this writ petition has been filed, forbearing the respondents 2 to 5 from taking any action against the petitioner's company until the remaining 6% GST with interest and penalty has been paid to the petitioner's company by the first respondent.

4. Per contra, learned Special Government Pleader appearing for the respondents 2 to 5 submitted that in the present case on hand, as per terms and conditions of the Government Contract, the first respondent is supposed to pay the tax amount. If at all the first respondent fails to pay the said amount, it is the duty of the petitioner to pay the same. However, he fairly submitted that since the petitioner is facing financial difficulties due to the non-payment of tax amount by the first respondent, this Court may direct the petitioner to pay the aforesaid sum of Rs.4,15,69,890/- in equal monthly instalments.

5. Heard the learned counsel on either side and perused the materials available on record.

6. As rightly contended by the learned Special Government Pleader appearing for the respondents 2 to 5 that in the present case, if the first respondent fails to pay the GST amount, then, the petitioner is a liable person to pay the same. In case, the petitioner is aggrieved, he has to initiate appropriate action against the first respondent to recover the same and no way, the petitioner can link the non-payment of GST by the first respondent and defer the payment. In such view of the case, no direction can be issued as prayed by the petitioner.

7. However, considering the petitioner's financial crises and the first respondent, being the State Government and the direction issued by this Court vide order dated 15.04.2025, this Court is inclined to issue following directions to the petitioner:

(i) Liberty is granted to the petitioner to remit the aforesaid sum of Rs.4,15,69,890/-, in eight (8) equal monthly instalments.

(ii) The first instalment of Rs.65,69,980/- shall be paid on or before 30th of August 2025 and the remaining seven instalment of Rs.50,00,000/- each shall be paid on or before of 30th of every succeeding English Calendar month i.e., September 2025 to March 2026, without any default.

(iii) The respondents are at liberty to initiate recovery proceeding against the petitioner, in the event of any default.

With the above directions, this writ petition is disposed of. No cost.

08.08.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

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To

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KRISHNAN RAMASAMY.J.,

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