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W.P.No.32465 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : .08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.32465 of 2024
& W.M.P.Nos.35257 of 2024

M/s.Renaatus Projects Private Limited,
Rep by Managing Director,
Mr.Manoj Poosappan,
No.139/2, Vibgyor Building,
2nd Floor, Kodambakkam High Road,
Chennai 600 034.

... Petitioner

Vs.

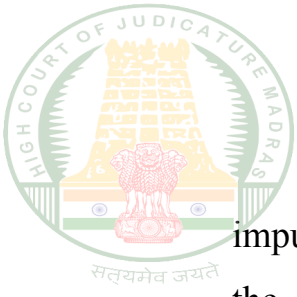
1.The Joint Director,
Directorate General of GST Intelligence,
Chennai Zonal Unit,
No.16, Greams Road, BSNL Building,
Chennai 600 006.

2.The Joint Commissioner,
CGST & Central Excise,
Chennai North Commissionerate,
GST Bhawan, Chennai 600 034.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari, to call for the records relating to the



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impugned Notice bearing No.76/2024-GST dated 22.07.2024 issued by the Joint Director, Directorate General of GST Intelligence, Chennai Zonal Unit, the 1st respondent herein, to quash the same.

For Petitioner : Mr.Vijay Narayan, Senior counsel,
for Mr.G.Shivakumar

For Respondent : Mr.G.Meganathan, Sr.St.counsel for R1
Mr.Sai Srujan Tayi, SPC,
& Ms.Pooja Jain, JPC for R2

ORDER

This writ petition has been filed challenging the impugned notice dated 22.07.2024 issued by the 1st respondent.

2. Petitioner's submission:

2.1 The learned Senior counsel for the petitioner would submit that the petitioner is a private limited company and registered with the GST Department for provision of Works Contract Services. The principal place of business of the petitioner is situated at Chennai.



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2.2 The petitioner had participated in the tender, on 19.09.2017, floated by M/s.NBCC India Limited, New Delhi, for construction of New Supreme Court Building at Port Louis, Mauritius and the said contract was awarded to the petitioner vide letter dated 14.11.2017. Subsequently, they had entered into a formal agreement on 06.12.2017.

2.3 In terms of the aforesaid letter of award, the petitioner had deposited 10% of the contract value, i.e., USD 24,257,196,99/-, by way of Demand Draft No.319771 dated 10.09.2017. Thereafter, on 01.12.2017, they had established a Foreign Branch Office (FBO) in Mauritius to execute the project.

2.4 The petitioner company had obtained corporate and business registration from the Government of Mauritius on 04.12.2017 and they had also registered under the Mauritius Value Added Tax Act on 12.12.2017. Subsequently, they had commenced the execution of the project, i.e., construction of New Supreme Court Building at Mauritius and completed the same during the month of October, 2020.



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2.5 All the project-related invoices were raised in USD by the FBO of the petitioner upon the Mauritius branch of NBCC, with payments and accounting handled exclusively in Mauritius. The FBO of the petitioner had also filed the statutory Corporate filings under the Mauritius Companies Act during the period of the aforesaid project.

2.6 Under these circumstances, the 1st respondent had conducted an investigation at the petitioner's premises and also enquired on the transactions and projects undertaken by the petitioner, including the projects executed outside India. All the details sought for by the Department were duly furnished by the petitioner.

2.7 Thereafter, on 09.07.2024, the notice in Form GST DRC-01A was issued by the 1st respondent to the petitioner, whereby they demanded GST for the construction of New Supreme Court at Mauritius by FBO of the petitioner. Upon receipt of the said notice, the petitioner filed a letter dated 15.07.2024, wherein it has been stated that the supply,



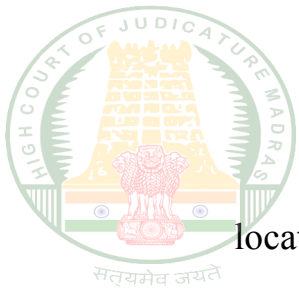
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being rendered from Mauritius, is not taxable in India. However, without considering the said response of the petitioner, the 1st respondent had issued the impugned show cause notice dated 22.07.2024. Hence, this petition has been filed.

2.8 Further, he would contend that in this case, both the service provider and the recipient were registered at Mauritius, i.e., outside India to execute a project therein, for which, the bank account was maintained and all the transactions were also carried out at Mauritius, i.e., outside India. When such being the case, without any jurisdiction, i.e., either territorial jurisdiction or Law jurisdiction, the respondent had arbitrarily issued the impugned show cause notice and hence, the same is liable to be quashed.

2.9 In this regard, he referred the definition of “Location of Service Provider” as provided in Section 2(71) of the Goods and Services Tax Act, 2017, (hereinafter referred as “GST Act”) and would submit that the location of the service provider will always be the



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location, where the supply is undertaken. When such being the case, in this case, since the project was executed at Mauritius, the same has to be considered as the location of the service provider. Merely because of the fact that the petitioner is registered in Tamil Nadu, the Location of the service provider cannot be regarded as Tamil Nadu.

2.10 Further, by referring Section 2(70) of the GST Act, he would submit that the “location of recipient” is identical to the definition of “location of service provider” and hence, in this case, Mauritius has to be considered as the location of recipient.

2.11 He would also submit that the bank account was maintained and the entire transactions were also carried out at Mauritius only. The payment was also not made in INR, but in USD. However, without considering all these aspects, the impugned show cause notice has been issued by the 1st respondent without any jurisdiction. Hence, he requests this Court to quash the said show cause notice.



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3. Respondents' submission:

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3.1 Per contra, the learned Senior Standing counsel and the learned Senior Panel counsel appearing for the respondents would submit that in this case, the agreement was entered into between the Indian Entities, where both the supplier and the recipient are located within India.

3.2 Further, he would submit that though the bank accounts were opened at Mauritius for execution of project, in the payment terms, it has been mentioned that the branch office may receive the amount, which is not a mandatory condition.

3.3 He would also contend that the branch offices were established only for the purpose of better monitoring and execution of the project and no separate agreement was executed between the petitioner and their FBO. The petitioner's FBO had procured materials for the project locally and also through shipments from the petitioner and the receipts of proceeds from NBCC is accounted by the site office,



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which was registered as a foreign company in Mauritius. No doubt that the revenue and expenditure relating to the site office at Mauritius is merged and consolidated and also reported under the financial of the petitioner.

3.4 In this case, as stated above, being the Indian Entity, both the supplier/petitioner and the recipient/NBCC are located in India. In such case, though the location of the immovable property is outside India, in terms of Section 12(3) of the IGST Act, 2017, the place of supply of services has to be considered as the location of the recipient, i.e., the supply has been made by the petitioner from Chennai and received by NBCC at New Delhi. Hence, it is clear that the transaction between the petitioner and the recipient is an inter-state supply, which is taxable under the provisions of Section 7(1) of the IGST Act, 2017.

3.5 He would also submit that in this case, NBCC had floated a tender for construction of a new Supreme Court Building at Port Louis, Mauritius and the said tender was awarded to the petitioner.



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Accordingly, the payment has been made to the petitioner by NBCC as per the Contract. However, no subsidy has been given to the petitioner towards the construction of new Supreme Court Building. In such case, the provisions of Section 2(31) and 15(2) of CGST Act will not come into picture.

3.6 Further, he would contend that the impugned show cause notice came to be issued as a proposal seeking information against the observations of the Department, for which, the petitioner shall file their detailed reply to satisfy the questions posed by the Department. Now, it would be pre-mature to entertain the present petition and hence, he prays for the dismissal of this petition.

4. Heard the learned Senior counsel for the petitioner and the learned Senior Standing counsel and the learned Senior Panel Counsel appearing for the respondents and also perused the materials available on record.



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5. In the case on hand, the petitioner, who is located at Chennai, had participated in the tender, on 19.09.2017, floated by M/s.NBCC India Limited, New Delhi, for construction of New Supreme Court Building at Port Louis, Mauritius and the said contract was awarded to the petitioner vide letter dated 14.11.2017. Subsequently, they had entered into a formal agreement on 06.12.2017.

6. In terms of the aforesaid letter of award, the petitioner had deposited 10% of the contract value, i.e., USD 24,257,196,99/-, by way of Demand Draft No.319771 dated 10.09.2017. Thereafter, on 01.12.2017, they had established a Foreign Branch Office (FBO) in Mauritius to execute the project. Subsequently, the petitioner company had obtained corporate and business registration from Government of Mauritius on 04.12.2017 and they had also registered under the Mauritius Value Added Tax Act on 12.12.2017. Thereafter, the petitioner had completed the construction of new Supreme Court building at Mauritius during the month of October, 2020.



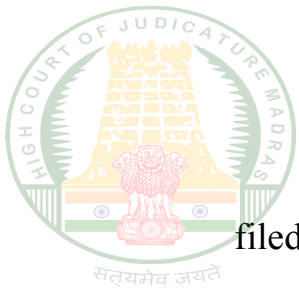
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7. According to the petitioner, all the invoices, pertaining to the project, were raised in USD by the petitioner's FBO upon the Mauritius branch of NBCC, with payments and accounting handled exclusively in Mauritius. The petitioner's FBO had also filed the statutory Corporate filings under the Mauritius Companies Act during the period of the aforesaid project.

8. Under these circumstances, the 1st respondent had conducted an investigation at the petitioner's premises and also enquired on the transactions and projects undertaken by the petitioner, including the projects executed outside India. All the details sought for by the Department were duly furnished by the petitioner.

9. Thereafter, on 09.07.2024, the notice in Form GST DRC-01A was issued by the 1st respondent to the petitioner, whereby they demanded GST for the construction of New Supreme Court at Mauritius by FBO of the petitioner. Upon receipt of the said notice, the petitioner



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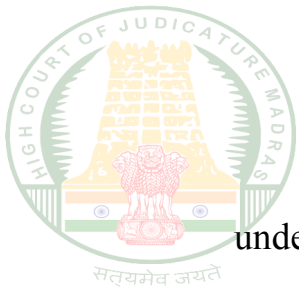
filed a letter dated 15.07.2024, wherein it has been stated that the supply being rendered from Mauritius, the same is not taxable in India. Since the 1st respondent was not satisfied with the said reply filed against the DRC-01A, the impugned show cause notice dated 22.07.2024 came to be issued. When such being the case, it would be appropriate for the petitioner to file a detailed reply for the impugned show cause notice by narrating the entire facts and justifying the reason as to how they are not liable to pay any tax under the GST Law. Upon filing the reply, it is an obligation on the part of the respondents to deal with the same and if they are satisfied with the reply, they will drop the proceedings, on the other hand, if they are not satisfied with the reply, they will provide a reason as to why they are not in a position to accept the said reply based on the facts and circumstances of the case. If the petitioner is aggrieved over the reason assigned by the respondent, they can very well challenge the same in the manner known to law. Without providing any such reply to the show cause notice, the petitioner had approached this Court in a pre-matured way, which is inappropriate.



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10. In a similar issue, vide judgement rendered in ***Sri Avantika Contractors (I) Ltd vs. Appellate Authority for Advance Ruling (GST & Others*** reported in ***2024 (8) TMI 943***, the Hon'ble Division Bench of Telangana High Court has held that the work carried out in abroad is not chargeable to GST under the Indian Law. The said decision was arrived at based on the facts and circumstances of that case after the filing of reply. In that case, the Court had an opportunity to deal with the aspect of decision, which was wrongly arrived at by the Authority concerned. However, in the case on hand, the show cause notice was issued for more than 20 pages on the factual issues. When such being the case, unless and otherwise the reply is filed by the petitioner, the respondent will not be in a position to know or decide about the nature of transaction. Further, when a show cause notice was issued, it is the bounded duty of an Assessee to explain their case, so as to enable the Department to understand the same. In the present case, the respondent was not satisfied with the reply filed by the petitioner for DRC-01A and thus, at this stage, the respondent will not have any opportunity to



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understand the nature of transaction. Therefore, as stated above, if any reply is filed by the petitioner for the impugned show cause notice, the respondent is bound to deal with the same. Thereafter, if the petitioner is aggrieved over the decision arrived at by the respondent, they can very well challenge the same in the manner known to law.

11. Further, it was contended by the petitioner that both the service provider/petitioner and the recipient/NBCC were registered at Mauritius, i.e., outside India to execute a project therein, for which, the bank account was maintained and all the transactions were also carried out at Mauritius, i.e., outside India. When such being the case, without any territorial or law jurisdiction, the respondent had arbitrarily issued the impugned show cause notice.

12. On the other hand, according to the respondents, being the Indian Entities, both the supplier/petitioner and the recipient/NBCC are located in India. In such case, though the location of the immovable property is outside India, in terms of Section 12(3) of the IGST Act,



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2017, the place of supply of services has to be considered as the location of the recipient, i.e., in this case, the supply has been made by the petitioner from Chennai and received by NBCC at New Delhi. In such case, the transaction between the petitioner and the recipient has to be considered as an inter-state supply, which is taxable under the provisions of Section 7(1) of the IGST Act, 2017.

13. Further, it was submitted by the respondent that the impugned show cause notice came to be issued only as a proposal, seeking information against the observations of the Department, for which, the petitioner shall file their detailed reply to satisfy the questions posed by the Department.

14. As rightly contended by the respondent, normally, when a show cause notice was issued by the Department, the petitioner is supposed to have explain their case by way of filing their reply for the said show cause notice. Thereafter, if they are aggrieved over the assessment order passed by the Assessing Officer, the said order shall be

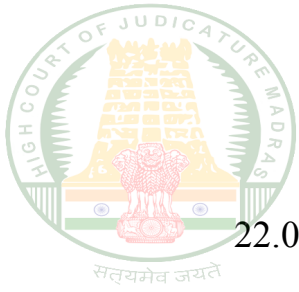


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challenged either before the Appellate Authority or before this Court in
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15. Further, in this case, as mentioned above, an elaborate show cause notice came to be issued on the factual aspect, which cannot be decided without any reply and supporting documents to be filed by the petitioner. When such being the case, this Court is of the view that it is obligatory on the part of the petitioner to file a detailed reply along with all the supporting documents to substantiate their case before the Assessing Officer. Therefore, it is clear that the present petition has been filed in a pre-mature manner and at this stage, the only right course available for the petitioner is to file a detailed reply along with all the supporting documents before the respondents.

16. Therefore, for all the above reasons, this Court is not inclined to entertain this writ petition. Accordingly, this petition is dismissed by granting liberty to the petitioner to file their reply, along with all the supporting documents, for the impugned show cause notice dated



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22.07.2024 within a period of 30 days from the date of receipt of a copy

of this order. No cost. Consequently, the connected miscellaneous petition is also closed.

08.2025

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

1.The Joint Director,
Directorate General of GST Intelligence,
Chennai Zonal Unit,
No.16, Greams Road, BSNL Building,
Chennai 600 006.

2.The Joint Commissioner,
CGST & Central Excise,
Chennai North Commissionerate,
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KRISHNAN RAMASAMY.J.,

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