IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-12-2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No. 36871 of 2025

1. LOGANATHAN
S/o. Nagappan No. 69 Thiruvalluvar
Street, Manamai Village And Post,
Kalpakkam Via Kancheepuram 603 012

Petitioner(s)

Vs

1. M/s. High End Quality Construction
(p) Ltd.,
Plot No. 28 Block A3, Sapphire Sea
View Villa, Iiird Street, Vgp Layout
Part Iii Injambakkam Chennai 115

2.The Secretary
Mse Facilitation Council, Regional
Joint Director Of Industries And
Commerce Guindy Chennai 32

Respondent(s)

PRAYER Writ Petition filed under Article 226 of Constitution of India for issuing Writ of Certiorari to call for the records of the 2nd respondent pertaining to impugned order dated 25.09.2024 passed in MSEFC/ CR/ 133/ 2024 and quash the same and pass

For Petitioner(s): K.Venkateswaran

For Respondent(s): Mr.M.Shajahan Spl.Gp For R2

ORDER

Heard Mr.V.Balakarthikeyan for the petitioner and Mr.M.Shajahan for the second respondent.

2. The petitioner challenges the Order of the Micro Small Enterprises Facilitation Council, Guindy, Chennai, by that Order the second respondent had held that as GST has not been paid by the petitioner and no tax invoice has been produced by him, the claim petition filed under section 18[1] of MSMED Act stands dismissed.

3. The petitioner, is in the line of the construction of cable trenches. He took a contract under the first respondent to construct cable trenches from NCSSII to CSS at Kalpakkam. The value of the total contract was Rs.15,02,730/-. Of this amount, a sum of Rs.8,62,281/- has been paid. This has left outstanding of Rs.6,40,449/-. The petitioner had made attempts to recover amounts from the first respondent. As he failed in his efforts, he filed a petition invoking Section 18 of the MSMED Act. He claimed interest of Rs.6,83,078/- at a consolidated amount of 13,22,527/- as on 23.03.2024.

4. Soon after the application came to be filed, the second respondent council fixed the date of hearing as 25.09.2024. On 25.09.2024, the first respondent and the petitioner appeared and the first respondent accepted his liability. A doubt seems to have been arisen in the minds of the council as regards the GST dues payable by the petitioner.

5. On 26.11.2024, the petitioner filed a memo stating that the turnover generated in his business is less than Rs.20 lakhs and hence, GST is not applicable to him. He further pointed out that initially he had registered himself under the GST regime on 27.12.2017, but realising that his turnover does not attract GST, cancelled the registration on 01.01.2018. The petitioner followed this memo by way of a letter dated 09.01.2025, despite the same, his petition came to be dismissed by pre dating the Order to 25.09.2024. Hence, the Writ Petition.

6. The only ground on which the petition has been dismissed is that the petitioner has not provided GST invoices to prove that he had settled the dues with the appropriate Government. When a person is not covered under the tax regime, to call upon him to produce invoice to show that he had infact paid taxes is a demand by the second respondent, calling upon the petitioner, to do an impossible act. The petitioner states that as he has not crossed the threshhold limit of Rs.20,00,000/-, he is not liable to pay GST. When he is not liable to pay GST, calling upon him to produce the GST invoices reflects patent non

application of mind.

7. Since the petitioner is not covered under the GST regime, the Order calling upon him to produce GST invoices, deserves to be set aside. Accordingly, the impugned proceedings in MSEFC/CR/133/2024 dated 25.09.2024 stands restored to the file of the second respondent. The second respondent shall issue notice to the petitioner and to the first respondent and to proceed in accordance with Section 18 of the MSME Act.

8. This Writ Petition is allowed. No costs.

01-12-2025

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

vrc

To
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