IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-02-2026

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P. No.39572 of 2024
and
W.M.P. Nos.42862 and 42863 of 2024

Sri Venkatachalapathy Constructions Private Limited,
Rep. by its Managing Director Karthikeyan P,
247, KCP Complex EVN Road,
Mettur Road, Erode, Tamil Nadu - 638 001.
GSTIN- 33ABFCS5156C1ZL

..Petitioner(s)

Vs

1. The Assistant Commissioner (ST)
   Chithode Circle, Erode.
2. Tamil Nadu Housing Board,
   Foreshore Estate Division,
   No.485, MTB Building, Anna Salai,
   Nandanam, Chennai - 600 035.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records on the files of the impugned proceedings of the 1st Respondent in the impugned rejection order vide Form GST RFD-06 dated 26.10.2024 along with the Annexure to RFD-06 dated 26.10.2024 for the Tax Period August 2022, quash the same.

For Petitioner(s): Ms.R.Hemalatha

For Respondent(s): Mr.C.Harsha Raj
Special Government Pleader (for R1)

ORDER

The petitioner is before this Court against the impugned order dated 26.10.2024 whereby the petitioner's refund claim dated 24.06.2024 for the tax period August 2022 has been rejected. The refund claim was made during the month of August, 2022 for the supply of services made by the petitioner between 01.01.2022 to 18.07.2022.

2. The petitioner appears to have provided services to Tamil Nadu Housing Board as per **Notification No.22 of 2021, Central Tax (Rate)** dated **31.12.2021**. The rate of tax for works contract services to any government entity or government authority was increased to 18% from the erstwhile 12% with effect from 01.01.2022.

3. Similarly, by **Notification No.3 of 2022-Central Tax (Rate)** dated **13.07.2022**, the rate of tax for works contract services rendered to Central and State Government or legal authorities which were earlier taxed at 12% was increased to 18% with effect from 18.07.2022. The petitioner appears to have paid tax at 18% for the period between 01.01.2022 to 17.07.2022 and therefore,

filed a refund claim stating that the petitioner was entitled to refund of excess 6% tax paid by the petitioner. The petitioner appears to have paid the tax along with interest in DRC-03 on 30.08.2022.

4. The petitioner has filed the refund claim application on 24.06.2024, pursuant to an inspection that was conducted by the Intelligence Wing Officers at the petitioner's premises on 17.08.2022, wherein it was found that the petitioner was supplying services to Tamil Nadu Housing Board, it is in this background, the petitioner has filed a refund claim on 24.06.2024.

5. The learned counsel for the petitioner has drawn attention to the communication of the Tamil Nadu Housing and Development Board dated 23.01.2024. wherein it is stated as follows:

> *" In the reference 6th cited, "Board has resolved to adopt the notification issued from Ministry of Finance (Department of Revenue) 18% GST rate instead of 12% for construction of all saleable projects with effect from 01.07.2017 and for Government schemes and Board owned building with effect from 18.07.2022 vide B.R.No.5.12 dated 23.06.2023. Also vide Board circular memo No.ES/E3/09013/2023, dated 18.12.2023 it has instructed to take necessary action to release the balance 6% of GST to the contractor engaged by TNHB for the execution of various work orders under various tenders.*
>
> *The above work Construction of 1248 (stilt + 34 floors) EWS*

flats (Group 2) at Ernavoor Village, Chennai is coming under PMAY Government schemes. Hence, based on above Boards circular memo vide reference 7th cited, GST 6% for the work of Construction of 1248 (stilt + 13 floors) EWS flats (Group 2) at Ernavoor Village, Chennai Main Work bill has been worked out from 18.07.2022 for making payment to the Contractor."

6. By the impugned order, the 1st respondent rejected the refund claim of the petitioner taking note of the letter dated 23.01.2024 from Tamil Nadu Housing Board on the ground that the said resolution is not binding on the Respondent and hence cannot be recognised as a statutory obligation for sanction of the refund claim to the petitioner.

7. That apart, it has been observed in the impugned order that **Notification No.22 of 2021-Central Tax (Rate)** dated **31.12.2021** by which the rate of tax for the works contract services rendered to any Government entity or Government authority was raised from 12% to 18% with effect from 01.01.2022 applies to the petitioner.

8. Considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

9. The petitioner cannot seek for refund of the amount which was paid by the petitioner on 21.03.2022, pursuant to extension that was made by the respondent on 17.08.2022, in the light of the increase in the rate of tax in terms of **Notification No.22 of 2021-Central Tax (Rate)** dated **31.12.2021** whereby the rate of tax was increased from 12% to 18% with effect from 01.01.2022.

10. The refund also pertains to the period of supply by the petitioner to Tamil Nadu Housing Board from 01.01.2022 to 18.07.2022, if at all the petitioner is entitled for refund, it is to be from the Tamil Nadu Housing Board and not from the respondent. This would also be in consonance with the principle under Section 64 A of the Sales Tax Act, 1956.

11. Therefore, the writ petition is liable to be dismissed. At best, liberty can be granted to the petitioner to recover the same from the Tamil Nadu Housing Board in terms of Section 64A of the Act in terms of the letter dated 23.01.2024. Consequently, there shall be a direction to the 2nd respondent to examine the issue and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

12. This writ petition stands disposed of with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.

12-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MKA

To:

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C. SARAVANAN J.

MKA

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