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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6543/2020 & CM APPL. 59109/2024**

DELHI WASTE MANAGEMENT LIMITEDPetitioner

Through: Mr.Sandeep P. Agarwal, Sr. Advocate
with Mr.Rajesh Pathak and
Mr.Prathamvir Singh, Advocates.

versus

NORTH DELHI MUNICIPAL CORPORATIONRespondent

Through: Mr. Sunil Goel, Mr.Himanshu,Ms.
Dimple and Ms.Varsha, Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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24.10.2024

1. The petitioner in the instant writ petition has prayed for the following relief:-

“(a) issue a writ in the nature of certiorari and mandamus or any other appropriate writ order or direction thereby directing the Respondent to release the sum of Rs.52,20,381/- withheld illegally and arbitrarily as service tax, service tax on escalation rate of driver & labour and labour-cess alongwith interest at the appropriate rate as to be decided by this Hon'ble Court from its deduction till actual release of money to the Petitioner;”

2. However, at the outset, it is seen that with respect to the similarly situated contractors in W.P.(C) 9445/2016 and other connected matters titled as *Hind Construction Co. v. South Delhi Municipal Corporation and Ors.*, wherein, an almost similar grievance was raised, this Court *vide* order dated



07.08.2024, while relying upon the decision in the case of *Metro Waste Handling Pvt. Ltd. v. South Delhi Municipal Corporation*¹, directed the respondents to release the amount withheld *qua* service tax. Admittedly, against the said order dated 07.08.2024, no proceedings i.e., appeal or otherwise, have been preferred by the respondent.

3. Learned counsel for the respondent, while drawing the attention of the Court to the counter affidavit filed by the respondent, points out that there are delay and laches on behalf of the petitioner and the petition is liable to be dismissed on that score only. He submits that the petitioner is erroneously seeking parity with the order passed in *Metro Waste (supra)* and also the relief granted by this Court in W.P.(C) 9445/2016 and other connected matters.

4. The fact remains that the petitioners in the case of *Hind Construction (supra)* and the petitioner herein are placed on the similar footing, inasmuch as, the work order was issued through a similar process and the payments have also been withheld under the similar heads.

5. If the preliminary objection of the learned counsel for the respondent is accepted, the same would depict that in the cases of *Hind Construction (supra)*, the Court has wrongly granted the relief to the petitioners.

6. In any case, the Court is unconcerned as to who represents a particular party in any particular manner, focusing instead on the consistent stance that must be maintained by the litigant during legal proceedings. It is imperative that the litigants resort to a uniform stance so as to uphold legal consistency. In the instant case, the Court *prima facie* finds that the respondent is taking

¹ 2020:DHC:1895



different stands in similar controversies, solely relying on the justification that the arguing counsel was different. If that be so, certain directions are required to be passed against the responsible officer of the respondent.

7. In view of the above, the respondent is directed to place on record the relevant facts as to why the objection with respect to delay and laches was not raised in the case of *Hind Construction Co. (supra)* and other connected matters.

8. List this matter on 18.11.2024.

PURUSHAINdra KUMAR KAURAV, J

OCTOBER 24, 2024

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