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

\+ **W.P.(C) 16972/2022 & CM APPL. 53774/2022, 55834/2022**

M/S THIRD WAVE SERVICES PRIVATE LIMITED..... Petitioner
Through: Mr. Ajinkya Tiwari, Advocate. (M: 8989428226)

versus

ENGINEER IN CHIEF & ANR. ..... Respondents
Through: Mr. Vineet Dhanda, CGSC with Mr. Vikrant Aditya (G.P.), Mr. Hussain Taqvi, Mr. Archit Aggarwal and Ms. Gurleen Kaur, Advocates for R-1 and 2 (M: 9988623888).
Mr. Harpreet Singh, Advocate for GST Department.

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% 21.04.2023

1. This hearing has been done through hybrid mode.

CM APPL. 55834/2022 (for rectification)

2. The appearance of Mr. Sujit Kumar Ghosh, Mr. Ajinkya Tiwari and Mr. Prateek Gupta are taken on record for the hearing on 13th December, 2022.

3. Application is disposed of.

W.P.(C) 16972/2022 and CM APPL. 53774/2022

4. Vide order dated 13th December 2022, this Court directed as follows:

> *"3. The question, in the present case, is as to when the Notification 24/2017 Central Tax (Rate) dated 21st September, 2017, by which the GST rates have been reduced from 18% to 12% on 'Work Contracts and Construction Services', would come into effect.*

> *4. The case of the Petitioner is that the reduction of GST rates from 18% to 12% would come into effect from 21st September, 2017, and not from 22nd September, 2017. On the other hand, the case of the Respondent is that the reduction of rate from 18% to 12% came into effect from 22nd September, 2017. Thus, the difference of 6% cannot accrue as a benefit to the Petitioner.*
> *5. Considering the nature of the matter, it is deemed appropriate to issue court notice to Mr. Harpreet Singh, ld. Standing Counsel, to clarify the position as to the date of applicability of the new rates.*
> *6. In the meantime, the Respondents shall not take any coercive steps for recovery of Rs.18,66,535/-, subject to further orders of this Court."*

5. Mr. Harpreet Singh, ld. Counsel appearing for the GST Department/Central Board for Indirect Taxes and Customs (CBITC) pursuant to the order dated 13th December, 2022 has clarified today to the Court that the reduction of the GST rates from 18% to 12% was notified on 21st September, 2017. He handed over the copy of the Gazette notification bearing Notification No. 24/2017-Central Tax (Rate) to the ld. Counsel for the Petitioner and the contesting Respondent No. 1-Military Engineering Services. Let a copy of the said notification be also placed on record by Mr. Harpreet Singh, ld. Counsel. He need not appear further in this matter.

6. Considering this position, one relevant question is, what is the amount that the Petitioner has deposited as GST in respect of the works contract dated 28th September 2017 in question.

7. The contesting Respondent No.1-Military Engineering Services (MES) would also need to file its counter affidavit considering the stand of the ld. Counsel for the GST Department/CBITC.

8. Let both the Petitioner and the Respondent No. 1-MES file their respective affidavits within six weeks as directed above. The Petitioner shall file the proof of deposit of GST and the rate at which it has been calculated.

9. List before the Registrar for completion of service and pleadings 14th July, 2023

10. List before the Court on 10th October, 2023.

PRATHIBA M. SINGH, J.

APRIL 21, 2023
mr/dn