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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

TUESDAY, THE 4TH DAY OF MARCH 2025 / 13TH PHALGUNA, 1946

WP(C) NO. 5290 OF 2024

PETITIONER:

T. MOHANAN
AGED 66 YEARS
S/O. DAMODARAN NAIR, RESIDING AT NANDANAM,
KOTTOOLI, KOZHIKODE, PIN - 673016

BY ADVS.
V.V.SURENDRAN
P.A.HARISH
DONA PAUL

RESPONDENTS:

- 1 THE MANAGING DIRECTOR
KERALA STATE COASTAL AREA DEVELOPMENT
CORPORATION, FISHERIES COMPLEX, KAMALESWARAM, PO.
MANACAUD, THIRUVANANTHAPURAM-, PIN - 695001
- 2 THE CHIEF ENGINEER
KERALA STATE COASTAL AREA DEVELOPMENT
CORPORATION, FISHERIES COMPLEX, KAMALESWARAM, PO.
MANACAUD, THIRUVANANTHAPURAM, PIN - 695001



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- 3 THE DIVISIONAL ACCOUNTANT
KERALA STATE COASTAL AREA DEVELOPMENT
CORPORATION, FISHERIES COMPLEX, KAMALESWARAM, PO.
MANACAUD, THIRUVANANTHAPURAM-, PIN - 695001
- 4 THE DIRECTOR OF FISHERIES
VIKAS BHAVAN, THIRUVANANTHAPURAM, PIN - 695003

BY ADV NINU M.DAS

OTHER PRESENT:

SR.GP.SUNIL KUMAR KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17.10.2024, THE COURT ON 04.03.2025 DELIVERED THE
FOLLOWING:



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V.G.ARUN, J

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W.P.(C).No.5290 of 2024

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Dated this the 4th day of March, 2025

JUDGMENT

Petitioner's proprietary concern named "Indo Tech", was awarded the electrification work for GRFTHS and VHSS, Azheekkal, Kannur District based on the tender invited by the Government through the Kerala State Coastal Area Development Corporation ('the Corporation' for short). On completion of the work, respondents sanctioned the bill amount of Rs.17,61,363/-. The petitioner had to pay a sum of Rs.3,17,045.34 towards CGST and SGST on the bill amount sanctioned by the respondents. The respondents having failed to accede to petitioner's request for refund of the amount paid towards GST, he approached this Court. That writ petition (W.P. (C). No.29024 of 2023) was disposed of as per Ext.P5 judgment granting liberty to the petitioner to approach the competent



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among respondents 1 to 3 with a representation and directing the Corporation to pass appropriate order after hearing the petitioner and adverting to all the documents and materials as are applicable. Accordingly, petitioner submitted a representation, which the 1st respondent rejected as per Ext.P6. Aggrieved, this writ petition is filed seeking the following reliefs:

- "i) Issue a writ of certiorari or any other appropriate writ order or direction quashing Ext.P6 order passed by the 1st respondent.
- ii) Issue a writ of mandamus or any other appropriate writ order or direction, directing respondents 1 to 3 to pay a sum of Rs. 3,17,045/- within a time frame stipulated by this Honourable court.
- iii) Issue a writ of mandamus or any other appropriate writ order or direction directing respondents 1 to 3 to pay interest to the petitioner for the delay caused by them in refunding the GST paid by the petitioner towards the work undertaken by him pursuant to Ext. P2 contract."

2. Learned counsel for the petitioner contended that as per the terms of Ext.P3 Government circular, which is binding on the Corporation, rates to be quoted by the bidders are exclusive of GST. Further, while finalising the procurement of goods,



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services or both, the estimate should be arrived, exclusive of GST. The circular also clarifies that, for the purpose of determining the lowest bidder (L1), rates quoted by the bidders, exclusive of GST amount, should be taken into consideration. Therefore, the statement in Ext.P6 that in the notice inviting tender it was specifically stated that the rates quoted shall be inclusive of all applicable taxes, cannot be countenanced. The stand taken in Ext.P6 that the Corporation had never allowed any amounts over and above the rates quoted towards GST is also incorrect, as evident from Ext.P7.

3. Learned Standing Counsel for the Corporation submitted that at the time when the notice inviting tender for the subject work was issued, the existing DSR (Delhi Schedule of Rates) was inclusive of all taxes including VAT/GST. The new schedule of rates, without the tax component, had not been published by the Central Public Works Department. Hence, the rates quoted by bidders were inclusive of GST. In Ext.R1(c)



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notice inviting tender also, it is specifically stated that the rates quoted shall be inclusive of all applicable taxes. The petitioner had participated in the tender fully aware of this fact and having received the work, cannot contend that his rate was not inclusive of GST.

4. The legal position that the tender awarding authority as well as the bidders are bound by the terms of the notice inviting tender and the agreement needs no reiteration. Here, the notice inviting tender stipulated that the rates quoted shall be inclusive of all applicable taxes. The petitioner is relying on Ext.P3 Revised Guidelines on GST for Procurement of Goods and arrangement of Services and Public Works by Government Agencies to contend that the rate was exclusive of GST. According to the respondents, Ext.P3 would apply only if the estimates were prepared based on the new DSR. On the other hand, the estimate for the subject tender was prepared based on the then existing DSR, which was inclusive of GST. Be that as it may, being only guidelines, Ext.P3 cannot prevail over the



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terms in the notice inviting tender. Yet another aspect is that, while Clause 8 of Ext.P3 stipulates that the total amount submitted for Administrative Sanction should indicate the estimate amount and applicable GST separately, there is no such segregation in Ext.R1(a) Administrative Sanction Order. In such circumstances, petitioner's claim for GST paid by him was rightly rejected.

For the aforementioned reasons, the writ petition is dismissed.

Sd/-

V.G.ARUN, JUDGE



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APPENDIX OF WP (C) 5290/2024

PETITIONER EXHIBITS

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| Exhibit P1 | A TRUE COPY OF THE PROCEEDINGS OF THE
2ND RESPONDENT DATED 21.08.2019
SANCTIONING THE WORK TO THE PETITIONER |
| Exhibit P2 | A TRUE COPY OF THE AGREEMENT ENTERED
INTO BETWEEN THE PETITIONER AND THE 2ND
RESPONDENT DATED 26.09.2019 |
| Exhibit P3 | A TRUE COPY OF THE CIRCULAR DATED
01.03.2019 ISSUED BY THE FINANCE C
INDUSTRIES AND PUBLIC WORKS (B)
DEPARTMENT |
| Exhibit P4 | A TRUE COPY OF THE INVOICE DATED
20.10.2022 |
| Exhibit P5 | A TRUE COPY OF THE JUDGMENT OF THIS
HONOURABLE COURT IN W.P. (C) 29024/2023
DATED 19.09.2023 |
| Exhibit P6 | A TRUE COPY OF THE ORDER OF THE 1ST
RESPONDENT DATED 10.01.2024 |
| Exhibit P7 | TRUE COPY OF THE LETTER DATED 14.12.2023
ISSUED BY THE 1ST RESPONDENT TO THE
FISHERIES DIRECTOR |



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RESPONDENT EXHIBITS

- Exhibit R1(a)** A true copy of Government Order G.O.
 (Rt)No.567/2018/F and PD issued by
 Fisheries and Ports (C) Department dated
 09/07/2018
- Exhibit R1(b)** A true copy of the Techriical Sanction
 Slip under TS No.46/Price/KSCAI)C/ 2019-
 2020 dated 06/08/2019
- Exhibit R1(c)** true copy of the relevant pages of
 Tender No. ET- 27/ 19-20 issued by 1st
 respondent and signed by the Petitioner
 dated 13/09/2019