IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF OCTOBER, 2019

BEFORE

THE HON'BLE MR.JUSTICE S. SUNIL DUTT YADAV

**WRIT PETITION No.18049/2019 (LB-RES)**

**BETWEEN**:

K. ANANTHAKRISHNA SHETTY
S/O APPUMESTRI,
AGED ABOUT 46 YEARS,
CLASS I CONTRACTOR,
PERVAJE ROAD,
KARKALA – 574 104
UDUPI DISTRICT.

... PETITIONER

(BY SRI. AKSHAYA B. M., ADVOCATE)

**AND**:

1. MANGALORE MAHANAGARA PALIKE
M.G.ROAD,
LALBAUG,
MANGALURU – 575 003.
REP. BY ITS COMMISSIONER.

2. TOWN MUNICIPAL COUNCIL
KARKALA MAIN ROAD,
UDUPI DISTRICT,
KARNATAKA – 574 104
REP BY ITS COMMISSIONER ... RESPONDENTS

(BY SRI. K V NARASIMHAN, ADVOCATE FOR R1;
SRI CHANDRAKANTH ARIGA, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECTING TO CONSIDER THE REPRESENTATION OF THE PETITIONER FOR MAKING PAYMENT ALONG WITH THE GST DATED 26.12.2018 VIDE ANNEXURE-O THE R-1 AND ETC.

THIS WRIT PETITION COMING ON PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT, MADE THE FOLLOWING:

**ORDER**

Petitioner is stated to be a contractor and had been awarded contracts relating to execution of public projects by respondents 1 and 2. It is further stated that in accordance with the work order issued pursuant to the tender, petitioner has executed works and has been raising bills. It is further submitted that as regards the bills raised after 01.07.2017 including the component of GST in the invoices, the respondent - Authority have orally declined to consider such of the invoices for the purpose of payment and have orally directed the petitioner to exclude the component of GST, only after which bill would be considered for payment.

2. The petitioner, it is stated has made representations as per Annexures – N, O and P to permit him to include the component of GST in the invoices and to honour such bills.

3. Learned counsel appearing for the respondent – Municipal Authority submits that if in law the petitioner is liable to pay GST, they would be obliged to take note of the legal obligation to consider such of the invoices.

4. It is noticed that the obligation to pay GST by supplier of goods and services is clear as per Section 9 of the Central Goods and Services Tax Act, 2017 (for short 'the Act') wherein the obligation to levy and collect is on the person who supplies goods or services or both. However, the obligation under Section 33 of the Act provides that while raising an invoice, the amount of tax is to be indicated in the tax invoice.

5. It is further contended by the petitioner that the contract between the petitioner and the respondent – Authority is in the format submitted at Annexure-B, wherein Clause 35 provides that the rates quoted by the contractor is deemed to be inclusive of taxes and hence, he is obliged to include the tax component in the invoice. It is for the respondent to take note of the said contention while considering the representation of the petitioner.

6. It is not in dispute that the liability to pay GST has come into force after 01.07.2017. In light of statutory liability, the representation of the petitioner to permit him to include the GST component in the invoice that he has raised for the works executed after 01.07.2017 is to be considered appropriately by the respondent - Authority in light of observations made above and in accordance with law. If the obligation does impose liability on the petitioner as made out, the

representation of the petitioner is to be taken note of in accordance with law and disposed of appropriately.

Accordingly, the petition is ***disposed of***.

**Sd/-**
**JUDGE**

VP