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IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 10TH DAY OF NOVEMBER 2004

BEFORE

THE HON'BLE MR. JUSTICE K.L.MANJUNATH

W.P.NO.44994/2004 (GM)

BETWEEN

K.M.MURALI
S/O.LATE K MUNIYAPPA
AGED ABOUT 33 YRS.
CIVIL CONTRACTOR
R/AT. NO.1066, MURALI NILAYA
KOLAR ROAD, BANGARPET
KOLAR DIST. ... PETITIONER

(By Sri M.NARAYANA REDDY - ADV.)

AND :

1. THE STATE OF KARNATAKA
DEPARTMENT OF COMMERCE AND INDUSTRY
REPT. BY ITS SECRETARY
M.S.BUILDING, BANGALORE

2. THE EXECUTIVE ENGINEER
MARKET DEVELOPMENT PROJECT
AGRICULTURAL MARKETING DEPARTMENT
BANGALORE DIVISION
RAJ BHAVAN ROAD
BANGALORE ... RESPONDENTS

(By Sri B.N.PRASAD - HCGP FOR R1)

THIS WP FILED PRAYING TO DIRECT THE RESPONDENTS TO FORBEAR FROM ENFORCING THE SCHEDULE OF RATES TO THE PETITIONER AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY THE COURT MADE THE FOLLOWING :-

ORDER

The petitioner is a registered contractor. According to him, he is purchasing building materials, road materials and other raw materials from private sources. He has also submitted the running bills. While honouring the bills, the respondents have deducted the royalty in respect of the materials used by the petitioner to execute the work. The petitioner has also requested the respondents not to deduct the royalty. The respondents have turned down the request of the petitioner. Therefore, the petitioner has filed this writ petition.

2. The point involved in this writ petition has been decided by this court in

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several cases. This Court has consistently upheld that the respondents have no right to deduct the royalty from the running bills, if the petitioner has purchased raw materials to execute the work from private sources. Therefore, this writ petition is required to be allowed.

3. Accordingly, this writ petition is allowed. The respondents are directed not to deduct royalty from the running bills of the petitioner. If the respondents have already deducted the royalty from the running bills, it is open for the petitioner to make representation to seek refund. If such representation is filed, the same shall be considered by the respondents on merits and in accordance with law.

Sd/-
Judge

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