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W.P.Nos.12371, 12390, 12392 & 12396 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR**

RAMAMOORTHY

Writ Petition Nos.12371, 12390, 12392 & 12396 of 2024
and

W.M.P.Nos.13501, 13505, 13507, 13508, 13511, 13513, 13518 &
13519 of 2024

Annalakshmi Stores,
20/224, Karumalaikoodal,
Metturdam - 636 402.
Petitioner in

...

all WPs.

-VS-

1. Deputy State Tax Officer -2,
Mettur Circle, Mettur - 636 402.
2. Deputy Commercial Tax Officer,
Mettur Circle, Mettur - 636 402.

... Respondents
in all WPs.

Prayer in W.P.No.12371 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari call for the records of the 1st respondent herein in Impugned order in GSTIN: 33CJJPS4357Q2ZC/2017-18 dated 30.08.2023 and the consequential DRC



07 passed in Ref.No.ZD330823172514E dated 30.08.2023 passed by the

second respondent and quash the same and pass such order or further orders may deem fit and proper in the circumstances of the case.

Prayer in W.P.No.12390 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari call for the records of the 1st respondent herein in Impugned order in GSTIN: 33CJJPS4357Q2ZC/2018-19 dated 30.08.2023 and the consequential DRC 07 passed in Ref.No.ZD3308231749508 dated 30.08.2023 passed by the second respondent and quash the same and pass such order or further orders may deem fit and proper in the circumstances of the case.

Prayer in W.P.No.12392 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari call for the records of the 1st respondent herein in Impugned order in GSTIN: 33CJJPS4357Q2ZC/2019-20 dated 31.08.2023 and the consequential DRC 07 passed in Ref.No.ZD330823187027A dated 31.08.2023 passed by the second respondent and quash the same and pass such order or further orders



may deem fit and proper in the circumstances of the case.

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Prayer in W.P.No.12396 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari call for the records of the 1st respondent herein in Impugned order in GSTIN: 33CJJPS4357Q2ZC/2020-21 dated 31.08.2023 and the consequential DRC 07 passed in Ref.No.ZD330823187398V dated 31.08.2023 passed by the second respondent and quash the same and pass such order or further orders may deem fit and proper in the circumstances of the case.

In all WPs.

For Petitioner : M/s.G.Vardini Karthik

For Respondents : Mr.C.Harsha Raj,
Additional Government Pleader (T)

COMMON ORDER

Assessment orders under Section 63 of the Central Goods and Services Tax Act, 2017 (the CGST Act) in respect of specific assessment



periods are assailed in these writ petitions.

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2. The GST registration of the petitioner was cancelled on 08.02.2019 with retrospective effect from 31.08.2017 on the ground that the petitioner had not filed his returns continuously for a period of six months. By asserting that the petitioner was unaware of the issuance of notice in Form GST ASMT-14 and the show cause notice because the said documents were uploaded by creating a temporary ID, the present writ petitions were filed.

3. By referring to Section 63 of applicable GST enactments and Rule 100 of the TNGST Rules, learned counsel for the petitioner contends that issuance of show cause notice in Form GST ASMT-14 is mandatory if proceedings are initiated under Section 63. She contends that the uploading of such notice on the temporary ID does not constitute service of notice as per section 169 of applicable GST enactments. She further submits that the petitioner remitted 10% of the disputed tax demand in respect of each assessment period and endeavored to file statutory appeals. Such appeals could not be filed because of the creation of the temporary ID. In these circumstances, learned counsel submits that the petitioner has been



left without remedy. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand in respect of each assessment.

4. In response to the submissions, Mr.C.Harsha Raj, learned Additional Government Pleader, contends that the petitioner's email ID and mobile number, as per the original GST Registration, were used for the purpose of the temporary ID. Consequently, he points out that the relevant password was communicated to the above mentioned e-mail ID and to the mobile number. Hence, he contends that the petitioner had access to the temporary ID.

5. On examining the orders impugned herein, it is evident that the tax liability was computed on best judgment basis by drawing on the particulars available in the auto - populated GSTR-2A. By using the total purchase value as the basis, the taxable value was arrived at and freight and miscellaneous charges and gross profit was added thereon. This exercise was carried out without hearing the petitioner in person and considering the



petitioner's objections.

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6. In these facts and circumstances, it is just and necessary that the petitioner be provided an opportunity to contest the tax proposal on merits. Since the petitioner has remitted 10% of the disputed tax demand under the old registration, it is open to the petitioner to apply for refund of the same. If such application is made, the same should be considered and disposed of within a period of 30 days. In order to secure revenue interest in the meantime, as agreed to by the petitioner, the petitioner shall remit 10% of the disputed tax demand in respect of each assessment period. Such remittance shall be made within two weeks from the date of receipt of a copy of this order, without awaiting the outcome of the remand application.

7. Subject to compliance with the aforesaid conditions, the orders impugned are set aside and these matters are remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period of two weeks. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand for each



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assessment period was received, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within three months from the date of receipt of the petitioner's reply.

8. These writ petitions are disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

10.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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To

1. Deputy State Tax Officer -2,
Mettur Circle, Mettur - 636 402.
2. Deputy Commercial Tax Officer,
Mettur Circle, Mettur - 636 402.



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SENTHILKUMAR RAMAMOORTHY,J

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