



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2018

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos. 1967, 1968, 1969, 1970, 1971  
and 1972 of 2018

and

W.M.P.(MD)Nos.2214, 2215, 2216, 2217, 2218  
and 2219 of 2018

W.P.(MD)No.1967 of 2018

R.Sivakumar

... Petitioner in all the WPs

Vs.

1.The Commissioner of Commercial Taxes,  
O/o. The Principal and Special Commissioner of  
Commercial Taxes,  
Ezhilagam, Chepauk,  
Chennai-600 005.

2.The Assistant Commissioner (CT),  
Mahal Assessment Circle,  
Commercial Taxes Complex,  
Dr.Thangaraj Salai,  
Madurai-625 020.

... Respondents in all the WPs

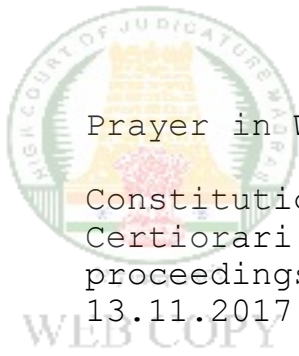
PRAYER in W.P.(MD)No.1967 of 2018 : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the second respondent in TIN.33795142597/2006-07 dated 10.11.2017 and quash the same.

Prayer in WP(MD). 1968/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN 33795142597/2007-08 dated 10.11.2017 and quash the same.

Prayer in WP(MD). 1969/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN 33795142597/2008-09 dated 10.11.2017 and quash the same.



Prayer in WP(MD). 1970/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN 33795142597/2009-10 dated 13.11.2017 and quash the same.

Prayer in WP(MD). 1971/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for records pertaining to the impugned proceedings of the 2nd Respondent in TIN. 33795142597/2010-11 dated 13.11.2017 and quash the same

Prayer in WP(MD). 1972/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN 33795142597/2011-12 dated 13.11.2017 and quash the same.

For petitioner : Mr. Raja Karthikeyan

For Respondents : Mrs.S.Srimathy  
Special Government Pleader  
(in all writ petitions)

#### COMMON ORDER

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Heard counsel on either side.

2. The petitioner is an assessee with the respondent. In respect of the assessment years 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, pre-revision notices were issued. The petitioner herein received the notices, and submitted his reply letter dated 27.05.2015 along with the requisite documents. Without considering the petitioner's objection, the second respondent has passed a final orders dated 10.11.2017 and 13.11.2017.

3. The ground taken by the learned counsel for the petitioner is that the second respondent ought to have considered the fact that the ratio of 70:30 shall be adopted only in the case where the labour and other like charges are not ascertainable from the books of accounts. Finding some force in the contention raised by the learned counsel for the petitioner, this Court directs that the impugned order shall be treated as a notice. But this petitioner has to be put on terms. The petitioner shall remit 15% of the deposited tax amount within two weeks. The matter is remitted to the file of the respondent. The respondent shall pass orders afresh in accordance with law after affording an opportunity to the petitioner and making available the documents relied on by the respondent.



4. These writ petitions are allowed as indicated above. Consequently, connected miscellaneous petitions are closed. No costs.

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Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To:

1. The Commissioner of Commercial Taxes,  
O/o. The Principal and Special Commissioner of  
Commercial Taxes,  
Ezhilagam, Chepauk,  
Chennai-600 005.

2. The Assistant Commissioner (CT),  
Mahal Assessment Circle,  
Commercial Taxes Complex,  
Dr. Thangaraj Salai,  
Madurai-625 020.

+1CC to Mr. Raja Karthikeyan, Advocate, SR.No. 48158  
+1CC to the Special Government Pleader SR.No.48602

ORDER MADE IN  
W.P. (MD) Nos. 1967, 1968, 1969, 1970, 1971  
and 1972 of 2018  
12.02.2018

pnn

AM/SV MMS/SAR 4/22.05.2018/3P/5C