



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P.(MD)Nos.8133, 8161, 8229, 8235, 8173, 8175,
8176, 8213, 8208 and 8211 of 2020andW.M.P.(MD)Nos.7548, 7576, 7638, 7644, 7592, 7593,
7594, 7622, 7624 and 7625 of 2020

M/s.Eswari Traders

Represented by its Authorised Representative

Mr.K.Tamil Mani ... Petitioner in WP(MD). No.8133/ 2020

M/s.Srinithi Enterprises Pvt. Ltd

Represented by its Director,

Mr.Anguraj Ramalingam ... Petitioner in WP(MD). Nos. 8161,
8229 & 8235/ 2020

M/s.Sadmurugan Traders

Represented by its Authorised Representative,

Mr.K.Tamilmani ... Petitioner in WP(MD). Nos.8173, .
8175 & 8176 of 2020

M/s.Sri Paranjothi Traders

Represented by its Authorised Representative

Mr.K.Tamil Mani ... Petitioner in WP(MD). No.8213,
8208 & 8211 of 2020

- Vs. -

The State Tax Officer (Intelligence)

Survey Unit, Madurai ... Respondent in WP(MD)No.8133 of 2020

The State Tax Officer (Intelligence)

Adjudication - I,

Madurai 625 020 ... Respondent in WP(MD)No.8161, 8229 &
8235 of 2020

The State Tax Officer (Intelligence)

Inspection Cell - I, Madurai ... Respondent in WP(MD)No.
8173, 8175, & 8176 of 2020

The State Tax Officer - 2 (ST) (INT)

Review Unit, Madurai ... Respondent in WP(MD)No.8213,
8208 & 8211 of 2020

**Prayer in WP (MD) . No.8133/ 2020 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari to call for the records pertaining to the impugned assessment order dated 02.03.2020 issued by the Respondent in GSTIN 33AYRPS7038P12F/ 2019-20 and quash the same.

Prayer in WP (MD) . No.8161/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the impugned assessment order dated 02.03.2020 issued by the Respondent in GSTIN. 33AANCS6254Q1ZL/2017-18(s) No.1/2019-2020) and quash the same to the extent it imposes any liability on the petitioner

Prayer in WP (MD) . No.8229/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the impugned assessment order dated 02.03.2020 issued by the Respondent in GSTIN. 33AANCS6254Q1ZL/2018-19(s) No.2/2019-2020) and quash the same to the extent it imposes any liability on the petitioner

Prayer in WP (MD) . No.8235/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the impugned assessment order dated 02.03.2020 issued by the Respondent in GSTIN. 33AANCS6254Q1ZL/2019-20(s) No.3/2019-2020) and quash the same to the extent it imposes any liability on the petitioner

Prayer in WP (MD) . No.8173/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the imugned assessment order dated 2.3.2020 issued by the respondent in GSTIN 33GFBPS1533EIZR/2017-18 and quash the same.

**Prayer in WP (MD) . No.8175/ 2020 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the imugned assessment order dated 2.3.2020 issued by the respondent in GSTIN 33GFBPS1533EIZR/2019-20 and quash the same

Prayer in WP (MD) . No.8176/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the imugned assessment order dated 2.3.2020 issued by the respondent in GSTIN 33GFBPS1533EIZR/2018-19 and quash the same.

Prayer in WP (MD) . No.8213/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleasd to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the impugned assessment order dated 2.3.2020 issued by the Respondent in GSTIN. 33BZOPR2407Q1ZR/2017-2018 and quash the same

Prayer in WP (MD) . No.8208/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleasd to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the impugned assessment order dated 2.3.2020 issued by the Respondent in GSTIN. 33BZOPR2407Q1ZR/2018-2019 and quash the same

Prayer in WP (MD) . No.8211/ 2020

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleasd to issue any writ or order or direction most particular in the nature of Certiorari and call for the records pertaining to the impugned assessment order dated 2.3.2020 issued by the Respondent in GSTIN. 33BZOPR2407Q1ZR/2019-2020 and quash the same

For Petitioner	..	Mr. Hari Radhakrishnan in all cases
For Respondent	..	Mrs. J.Padmavathi Devi
		Spl Govt Pleader in all cases

**COMMON ORDER**

Heard the learned counsel appearing for the writ petitioners and the learned Special Government Pleader appearing for the respondents. I also heard the respondents officers also in persons through Video Conference.

2.Though the petitioners have raised very many grounds in the affidavits filed in support of these writ petitions, the petitioners' counsel confined himself to one short ground for the disposal of these writ petitions. He pointed out that in response to the show cause notices, the petitioners had submitted their replies on 29.02.2020. The impugned orders came to be passed on 02.03.2020.

3.The petitioners' counsel drew my attention to Section 75(4) of the Tamil Nadu Goods and Service Tax Act 2017, which reads as under:-

"...75(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person..."

4.A reading of the above provision shows that after the explanation is received from the writ petitioners, the authority must apply their mind and if they contemplate an adverse decision, then they must provide an opportunity of hearing. Therefore, issuing a personal hearing notice even prior to the receipt of the explanation cannot be said to be compliance of the aforesaid statutory requirements. That stage would arise only after the authority *prima facie* considers the explanation and contemplates an adverse decision.

5.Since there is a clear violation of the aforesaid requirement, the orders impugned in the writ petitions stand quashed and the writ petitions are allowed. The matters are remitted to the file of the respondents to pass orders afresh in accordance with law. The respondents will issue personal hearing notice to the writ petitioners herein and thereafter pass orders afresh. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The State Tax Officer (Intelligence)
Survey Unit, Madurai
- 2.The State Tax Officer (Intelligence)
Adjudication - 1, Madurai 625 020.
3. The State Tax Officer (Intelligence)
Inspection Cell - I , Madurai
4. The State Tax Officer (Intelligence)
Review Unit, Madurai

+1cc to SPL GP Sr.No.15713,15712,15711

W.P. (MD)Nos.8133, 8161, 8229, 8235, 8173, 8175,
8176, 8213, 8298 and 8211 of 2020
31.08.2020

VB (18.09.2020) 5P 6C