IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.2049 & 2050 of 2021
and
WMP.Nos.2321 & 2322 of 2021

Golden Homes Private Limited,
Rep. by its Director J.Rajkumar Balsingh
No.62, 5th Avenue, Anna Nagar,
Chennai- 600040. .. Petitioner in both WPs

Vs

1.State Tax Officer- I,
Central Intelligece Cell, Intelligence- II,
No.1, Greams Road, Chennai- 600006.

2.Commissioner of State Tax,
Ezhilagam, Chennai- 600005.

3.Assistant Commissioner (ST),
Koyambedu Assessment Circle,
No.4/109, First Floor, Bangalore NH Road,
Varadharajapuram, Chennai- 600123.
… Respondents in both WPs

PRAYER in WP.No.2049 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the impugned proceedings of the first respondent passed in GSTIN: 33AAACG2258F2ZO / 2017- 2018 dated 28.11.2020 as the first respondent is not constituted as a proper officer as per notification issued in RC No.085/ 2016 Taxation A1 issued under section 5 of the TNGST Act 2017 dated 12.07.2017 read with the Circular No. 72/ 2019- TNGST (RC No.26/2019/ A1/ Taxation) dated 31.05.2019 and quash the impugned order.

PRAYER in WP.No.2050 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the impugned proceedings of the first respondent passed GSTIN. 33AAACG2258F2ZO / 2018- 2019 dated 21.11.2020 as the first respondent is not constituted as a proper officer as per notification issued in RC No. 085/ 2016 Taxation A1 issued under section 5 of the TNGST Act 2017 dated 12.07.2017 read with the Circular No. 72/ 2019- TNGST (RC No.26/2019/ A1/ Taxation) dated 31.05.2019 and quash the impugned order.

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(In both WPs)

For Petitioner : Mr.N.Murali

For Respondents : Mr.R.Swarnavel,
Government Advocate

COMMON ORDER

Heard Mr.N.Murali, learned counsel for the petitioner and Mr.R.Swarnavel, learned Government Advocate for the respondents.

2.Though the impugned orders dated 28.11.2020 and 21.11.2020 passed by the first respondent in terms of the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 (in short 'Act') have been challenged on various grounds, the sole ground that is urged before me is the lack of opportunity extended to the petitioner prior to passing of the orders as the petitioner has not been heard in person.

3.Considering the issue of whether personal hearing has to be granted prior to finalization of proceedings in terms of Section 73, I have in WP.No.13652 of 2020 held that Section 74 (5) mandated a personal hearing to be granted in all matters prior to finalization of assessments. In light of the admitted position that the petitioner has not been granted a personal hearing prior to finalization of the impugned proceedings, the impugned orders in regard to the periods 2017-18 and 2018-19 are set aside.

4.The petitioner will appear before the State Tax Officer-1/R1 on Monday, the 22nd of March, 2021 at 10.30 a.m. without expecting any further notice in this regard. After hearing the petitioner and considering supporting evidences if any, filed by it, orders of assessment de novo shall be passed within a period of six (6) weeks from the date of personal hearing, in accordance with law.

5.This writ petition is disposed in the aforesaid terms. Connected Miscellaneous petitions are also closed. No costs.

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Sd/-

Assistant Registrar(CS III)

//True Copy// Sub Assistant Registrar

vs

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To

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3.Assistant Commissioner (ST),
Koyambedu Assessment Circle No.4/109,
First Floor, Bangalore NH Road, Varadharajapuram,
Chennai- 600123.

+1cc to Mr.N.Murali, Advocate SR.No.14986

+1cc to Mr.N.Murali, Advocate SR.No.14986 (16.03.2021)

+1 cc to Government Pleader taxes Sr.No. 14939

Writ Petition Nos.2049 & 2050 of 2021
and
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A.SK(15.03.2021)

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