BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.03.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.7291 & 7293 of 2021 and
W.M.P.(MD)Nos.5551 & 5552 of 2021

Tvl.M.Shanmugavelu,
Government Works Contractor,
3/75, Middle Street, Karayaianoor,
Vadioor - 627 861, V.K.Pudur(TK),
Tenkasi District. ... Petitioner in both petitions

Vs.

The State Tax Officer,
Inspection (Intelligence Wing),
Commercial Tax Buildings,
Sivakasi. ... Respondent in both petitions

Prayer in W.P.(MD)No.7291 of 2021: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in GSTIN 33ARSPS5005N1Z9/2018-19 dated 04.01.2021 and to quash the same as illegal, arbitrary and in violation of the principles of natural justice and direct the respondent to pass assessment order afresh after affording an opportunity of personal hearing as contemplated under Section 75(4) of Tamil Nadu Goods and Services Tax Act 2017 within such time as may be directed by this Court.

Prayer in W.P.(MD)No.7293 of 2021: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in GSTIN 33ARSPS5005N1Z9/2019-20 dated 04.01.2021 and to quash the same as illegal, arbitrary and in violation of the principles of natural justice and direct the respondent to pass assessment order afresh after affording an opportunity of personal hearing as contemplated under Section 75(4) of Tamil Nadu Goods and Services Tax Act 2017 within such time as may be directed by this Court.

(in both W.Ps.)
For Petitioner : Mr.N.Sudalaimuthu,
for Mr.S.Karunakar.

For Respondent : Mr.J.Padmavathi Devi,
Special Government Pleader.

* * *

COMMON ORDER

Heard the learned counsel on either side.

2. The petitioner is a works contractor. The specific case of the petitioner is that while settling the bill amounts received, departments had in fact deducted the tax payable. It is not known as to whether remittance was made by the departments or not.

3. Be that as it may, the petitioner's place of business was inspected by the enforcement wing officials on 10.09.2020. Based on the same, show cause notice was issued on 20.10.2020. The petitioner submitted his reply dated 24.12.2020. However, without granting an opportunity of personal hearing, the impugned orders were straightaway passed. This is on the face of it as violative of Section 75(4) of the Tamil Nadu Goods and Services Tax Act, 2017.

4. Therefore, on this sole ground the orders impugned in these writ petitions are quashed. The writ petitions stand allowed. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law. The respondent is obliged to give personal hearing. The respondent may also consider independently and verify the materials placed by the petitioner. If the department which entrusted works contract to the petitioner, had deducted the tax amount but not remitted the same, the respondent may have to proceed against the concerned department. In my view, the entire burden may not be placed on the petitioner herein. The respondent may also independently verify with the respective departments. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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:
The State Tax Officer,
Inspection (Intelligence Wing),
Commercial Tax Buildings,
Sivakasi.

+2 CC to M/s.S.KARUNAKAR, Advocate (SR-14954 & 14955[F] dated 31/03/2021)

W.P.(MD)Nos.7291 & 7293 of 2021
31.03.2021

MJ(CO)
TR(26.04.2021) 3P 4C