



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).Nos.3945 to 3948 of 2022

and

W.M.P.(MD).Nos. 3391, 3389, 3395 and 3393 of 2022

W.P. (MD) .No.3945 of 2022

Tvl.Sri Amman Metal Works,
Represented by its Proprietor,
P.Karuppasamy

... Petitioner

Vs.

The State Tax Officer,
(Adjudication-2),
Tirunelveli.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records on the files of the respondent in GSTIN 33ABUFS8427N1Z9/2018-19 dated 09.11.2021 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner	: Mr.R.Senniappan
For Respondent	: Mr.V.Nirmalkumar
	Government Advocate

W.P. (MD) .No.3946 of 2022

Tvl.Sri Amman Metal Works,
Represented by its Proprietor,
P.Karuppasamy

... Petitioner

Vs.

The State Tax Officer,
(Adjudication-2),
Tirunelveli.

...Respondent



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records on the files of the respondent in GSTIN 33ABUFS8427N1Z9/2020-21, dated 09.11.2021 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.V.Nirmalkumar
Government Advocate

W.P. (MD) .No.3947 of 2022

Tvl.Sri Amman Metal Works,
Represented by its Proprietor,
P.Karuppasamy

... Petitioner

Vs.

The State Tax Officer,
(Adjudication-2),
Tirunelveli.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records on the files of the respondent in GSTIN 33ABUFS8427N1Z9/2021-22, dated 09.11.2021 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.V.Nirmalkumar
Government Advocate

W.P. (MD) .No.3948 of 2022

Tvl.Sri Amman Metal Works,
Represented by its Proprietor,
P.Karuppasamy

... Petitioner

Vs.

The State Tax Officer,
(Adjudication-2),
Tirunelveli.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records on the files of the respondent in GSTIN 33ABUFS8427N1Z9/2019-20, dated 09.11.2021 and quash the same as



being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.V.Nirmalkumar
Government Advocate

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COMMON ORDER

The petitioner has challenged the impugned orders, dated 09.11.2021 for the assessment years 2018-2019, 2019-2020, 2020-2021 and 2021-2022. The impugned orders are challenged on the ground that the impugned orders have been passed without compliance of the mandatory requirements of Section 75(4) of the respective Goods and Service Tax enactments, 2017.

2. The learned counsel for the petitioner submits that though the impugned orders preceded show cause notices, dated 28.09.2021, the petitioner replied to the same on 25.10.2021, before the expiry of 30 days. The learned counsel for the petitioner, however, fairly submitted that the petitioner had not obtained a dated acknowledgement in the reply filed on 25.10.2021. The learned counsel for the petitioner submits that the impugned orders, however, proceeds as if the petitioner has not replied to the respective show cause notices which preceded the impugned orders. It is therefore, submitted that the impugned orders are liable to be quashed.

3. Opposing the prayer, the learned counsel for the respondent submits that the petitioner had not replied to the respective show cause notices, dated 28.09.2021 and that after the impugned orders came to be passed on 09.11.2021, an attempt was made by the petitioner to give a reply on 12.11.2021. The learned counsel for the respondent has produced a copy of the same, which also bears the seal of the department. The learned counsel for the respondent therefore submits that there is no merits in the present writ petition and therefore the petitioner should be directed to work out an alternate remedy by way of appeal before the Appellate Commissioner under Section 107 of the respective Goods and Service Tax Act, 2017. The learned counsel for the respondents therefore prayed for dismissal of the writ petition.

4. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

5. I also perused the records so-called reply, dated 25.06.2021 which has been enclosed along with the typed-set which is stated to have not been filed by the petitioner. The petitioner has made a first attempt to reply to the show cause notice, after the impugned orders have been passed on 09.11.2021. The petitioner has an



alternate remedy before the Appellate Commissioner under Section 107 of the respective Goods and Service Tax enactments.

6. Considering the fact that the petitioner would be required to deposit only 10% of the amount as a condition for pre-deposit, I am inclined to quash the impugned order in turn, subject to the petitioner paying a sum of Rs.7.5 lakhs within a period of 30 days from the date of receipt of copy of this order. If such deposit is made by the petitioner within such period, the respondents shall pass a fresh order after calling the petitioner for a hearing within a period of 60 days thereafter. The impugned orders which now stands quashed are to be treated as corrigendum to respective show cause notices, dated 28.09.2021. It is open for the petitioner to give proper reply. In case, the petitioner fails to give reply, the respondents are entitled to pass appropriate orders on merits based on the records that are available. In case, the petitioner fails to deposit the aforesaid amount of Rs.7.5 lakhs within a period of 30 days, the impugned orders stand revived without further orders of this Court.

7. The writ petition stands disposed of with the above observation. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-)

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/ /2022

Sub Assistant Registrar(CS)

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To
The State Tax Officer,
(Adjudication-2),
Tirunelveli.

+1 CC to M/s.S.RAJA JEYA CHANDRA PAUL, Advocate (SR-9653[F] dated 03/03/2022)

+1 CC to M/s.SPL GP (SR-10147, 10149 [F] dated 04/03/2022)

W.P(MD).Nos.3945 to 3948 of 2022
03.03.2022

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