BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.03.2022
CORAM
THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) Nos.1764 to 1767 of 2019
and
W.M.P.(MD) Nos.1521 to 1524 of 2019

W.P.(MD)No.1764 of 2019:-

M.Nagarajan,
Proprietor : Maganth Ventures,
No.78, Nehruji Nagar,
80, Feet Road,
Dindigul. .. Petitioner

Versus

The Assistant Commissioner (ST) - I,
Dindigul. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the respondent in TIN No.: 33545201371/2007-08, dated 20.12.2018, and quash the same as illegal, invalid and violative of principles of natural justice.

W.P.(MD)No.1765 of 2019:-

M.Nagarajan,
Proprietor : Maganth Ventures,
No.78, Nehruji Nagar,
80, Feet Road,
Dindigul. .. Petitioner

Versus

The Assistant Commissioner (ST) - I,
Dindigul. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the respondent in TIN No.: 33545201371/2008-09, dated 20.12.2018, and quash the same as illegal, invalid and violative of principles of natural justice.

W.P.(MD)No.1766 of 2019:-

M.Nagarajan,
Proprietor : Maganth Ventures,
No.78, Nehruji Nagar,
80, Feet Road,Dindigul. .. Petitioner

Versus

The Assistant Commissioner (ST) – I,
Dindigul. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the respondent in TIN No.: 33545201371/2009-10, dated 21.12.2018, and quash the same as illegal, invalid and violative of principles of natural justice.

W.P.(MD)No.1767 of 2019:-

M.Nagarajan,
Proprietor : Maganth Ventures,
No.78, Nehruji Nagar,
80, Feet Road,
Dindigul. .. Petitioner

Versus

The Assistant Commissioner (ST) – I,
Dindigul. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the respondent in TNGST: 5201371/2006-07, dated 28.12.2018, and quash the same as illegal, invalid and violative of principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran
(in all the W.Ps.)

For Respondent : Mr.J.K.Jeyaseelan
(in all the W.Ps.) Government Advocate

COMMON ORDER

By this common order, these Writ Petitions are disposed of.

2.In these Writ Petitions, the petitioner has challenged the impugned assessment orders as detailed below:-

Sl. No.	Writ Petition No.	Assessment Year	Impugned order date
1.	W.P.(MD)No.1764 of 2019	2007-2008	20.12.2018
2.	W.P.(MD)No.1765 of 2019	2008-2009	20.12.2018
3.	W.P.(MD)No.1766 of 2019	2009-2010	21.12.2018
4.	W.P.(MD)No.1767 of 2019	2006-2007	28.12.2018

3.In all these Writ Petitions, the impugned order has been challenged primarily on the ground that the respondent has arrived at the differential value of the granite excavated by the petitioner based on the report of the Divisional Manager of TAMIN and there was a gross violation of the principles of natural justice, inasmuch as the petitioner was neither given a copy of the letter of the Divisional Manager of TAMIN nor allowed to cross-examine the Officer from the TAMIN.

4.The learned Government Advocate for the respondent on the other hand submits that the petitioner had indulged in large scale of revision of tax under the provisions of the Tamil Nadu Value Added Tax Act, 2006. It is further submitted that the petitioner has alternate remedy before the Deputy Appellate Commissioner (ST) (North), Madurai, and therefore, these Writ Petitions filed by the petitioner are devoid of merits.

5.It is submitted that without the inspection by the Enforcement Directorate on 18.10.2016, the fact regarding evasion of tax by the petitioner by suppression of value, would not come to the light of the Department. In this connection, a reference was made to the report of the Sagayam Committee, constituted by the Government, which prompted to inspect granite business held by the dealers in the Madurai Commercial Tax Division and the evasion of revenue to the Department was reviewed by the Joint Commissioner (CT), Madurai and he also monitored the revision following the findings provided in the VAT inspection proposals sent for implementation from the Enforcement Wing of the Department and the Assessing Officer/respondent is duty bound to complete the task of checking evasion specifically in this trade.

6.Though elaborate submissions have been made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, today [17.03.2022] I have already passed an order in W.P.(MD)No.4531 of 2019 for the assessment year 2005-2006, wherein the challenge to the assessment order is on similar grounds. The operative portion of the said order reads as under:-

> *''10.Considering the above, I am inclined to remit the case back to the respondent to pass a speaking order within a period of 90 days from the date of receipt of a copy of this order. The respondent is directed to furnish a copy of the letter dated 17.12.2016 to the petitioner. The petitioner is also entitled to produce collateral evidence to show that the value of the granite that was excavated by the petitioner during 2005-2006 was not as per the letter dated 17.12.2016 of the Divisional Manager of TAMIN. The respondent is directed to furnish a copy of the letter of the Divisional Manager of TAMIN to the petitioner within a period of 30 days from the date of receipt of a copy of this order. The petitioner is*

directed to give a reply to the proceedings along with supplementary evidence that may be available with him to the respondent. The respondent shall pass appropriate orders on merits and in accordance with law within a period of 30 days thereafter. It is made clear that the entire exercise shall be completed within a period of 90 days from the date of receipt of a copy of this order. It is also made clear that the respondent is entitled to rely on the information that might not have been come to their notice, including the letters issued by the statutory authority giving the value. However, the petitioner cannot have a right to cross-examine the officers. Independently, the petitioner can produce, as the collateral evidence to show that the value given by the Divisional Manager of TAMIN was incorrect.''

7.There is no difference in the cases covered by the impugned orders in these Writ Petitions and the one covered by the order in W.P.(MD)No.4531 of 2019, dated 17.03.2022, except for the period. Under these circumstances, the impugned orders are set aside and the matters are remitted back as directed in Paragraph 10 of the order dated 17.03.2022, in W.P.(MD)No.4531 of 2019.

8.These Writ Petitions are disposed of in terms of the above said order dated 17.03.2022, in W.P.(MD)No.4531 of 2019. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

/TRUE COPY/

/ /2022
Sub Assistant Registrar(CS)

To

The Assistant Commissioner (ST) – I,
Dindigul.

+1 CC to M/s.A.CHANDRASEKARAN, Advocate (SR-12793[F] dated 17/03/2022)

+1 CC to M/s.SPL GP (SR-13202[F] dated 21/03/2022)

Common order in

Writ Petition (MD) Nos.1764 to 1767 of 2019

17.03.2022

MK/30.03.2022/4P/4C