BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.22728 of 2022
and
W.M.P(MD).No.16877 of 2022

R.Subburaj ... Petitioner

Vs.

1.The Commissioner/Additional Chief Secretary,
Commercial Tax Department,
Ezhilagam,
Chepauk,
Chennai.

2.The State Tax Officer,
Bodinayakkanur Assessment Circle,
Theni. ...Respondents

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 pertaining to the impugned notice issued by the 2nd Respondent, dated 22.08.2022 and quash the same as illegal and unconstitutional.

For Petitioner : Mr.C.Jeganathan
For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned notice issued by the 2nd Respondent, dated 22.08.2022.

2. The Petitioner was granted lease for carrying quarry operations and transporting the same from his patta land to Theni District in terms of Rule 19(1) of the Tamil Nadu Minor and Mineral Concession Rules, 1959 for a period of 5 years. The Petitioner has been running the quarry operations and transporting the quarried minerals till now. While so, the Respondents insisting that the Petitioner ought to obtain registration under the Goods and Services Tax Act with regard to quarry operations and also forced to pay the GST on the seigniorage fee. It is submitted that there is challenge to the levy of GST pending consideration before the Hon'ble Supreme Court in the case of **M/s.Lakhwinder Singh Vs Union of India and others.** This Court in similar circumstances was pleased to pass the following order in W.P(MD)No. 20948 of 2022, dated 02.09.2022:

> *"5. Considering the materials and perusal of the materials available on the records, it is seen that the Honourable Apex Court in the case of M/s.Lakhwinder Singh Vs Union of India and others, had granted stay for payment of GST for grant of mining lease/royalty by the Petitioner. Further, it has been followed consistently by various Courts including this Court. It is further seen that the impugned order is only a notice. The petitioner is*

> *directed to appear before the respondents and make his objections with necessary documents. The petitioner is directed to approach the second respondent within a period of 30 days from the date of receipt of copy of this order and make his objections. Further, the second respondent is directed to consider the petitioner's objections and dispose the same in accordance with law following the judgment of the Honourable Apex Court (cited Supra). Till such time, status quo to be maintained by the respondents."*

3. It is submitted by the learned Special Government Pleader for the Respondents that the writ petition is premature. The Petitioner ought to be submit his objections and the writ petition is liable to be rejected.

4. Following the order of this Court in W.P(MD)No.20948 of 2022, dated 02.09.2022, this Court directs the Petitioner to submit his objections to the impugned notice, dated 22.08.2022 and furnish the documents that have been called for and take part in the proceedings. The Respondents are directed to consider the objections of the Petitioner and pass orders in accordance with law as laid down in the case of **Lakhwinder Singh** Supra. Till such time, *status quo* to be maintained by the Respondents.

5. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

28.09.2022

Index : Yes / No
Internet : Yes/ No
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To

1.The Commissioner/Additional Chief Secretary,
Commercial Tax Department,
Ezhilagam,
Chepauk,
Chennai.

2.The State Tax Officer,
Bodinayakkanur Assessment Circle,
Theni.

MOHAMMED SHAFFIQ, J.

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W.P(MD).No.22728 of 2022

28.09.2022