



WEB COPY



W.P.Nos.18583, 18587 & 18589 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.06.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.18583, 18587 & 18589 of 2023
and WMP Nos.17823, 17825 & 17827 of 2023

M/s.Ambika Timber Depot
Represented by its Managing Partner Rameshkumar Patel,
No.36, Palladam Road,
Negamam
Coimbatore – 642 120. ... Petitioner in WP.18583 of 2023

M/s.Sree Ashapura Saw Mill
Represented by its Managing Partner Rameshkumar Patel,
No.119, Meenkarai Road,
Zaminuthukuli
Coimbatore – 642 004. ... Petitioner in WP.18587 of 2023

M/s.Sree Laxmi Narayana Timbers Private Limited
Represented by its Director Rameshkumar Patel,
No.119, Meenkarai Road,
Zaminuthukuli
Coimbatore – 642 004. ... Petitioner in WP.18589 of 2023

Vs

The Assistant Commissioner of GST
O/o.Centrla goods & service tax,
Pollachi division,
Pollachi, Coimbatore District.
... Respondent in all WPs

PRAYER in WP.No.18583 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondent to render legal opportunity of cross examination in personal hearing



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in proceedings in SCN Sl.No.04/2022 GST & dated 31.03.2022 pending on the file of the respondent by considering the representation dated 20.10.2022, 16.03.2023 & 30.03.2023.

PRAYER in WP.No.18587 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondent to render legal opportunity of cross examination in personal hearing in proceedings in SCN Sl.No.02/2022 GST AC & dated 31.03.2022 pending on the file of the respondent by considering the representation dated 16.03.2023 & 30.03.2023.

PRAYER in WP.No.18589 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondent to render legal opportunity of cross examination in personal hearing in proceedings in SCN Sl.No.03/2022 GST & dated 31.03.2022 pending on the file of the respondent by considering the representation dated 20.10.2022, 16.03.2023 & 30.03.2023.

(In all WPs)

For Petitioners : Mr.S.Kumaresan

For Respondents : Mr.Sai Srujan Tayi
Senior Panel Counsel

COMMON ORDER

Read this order in conjunction with and in continuation of order dated 26.06.2023 that reads as follows:

Mr.Sai Srujan Tayi, learned Senior Panel Counsel accepts notice for the respondent.



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2. On oral instructions, learned Standing Counsel states that the assessing authority in this case has acceded to the request for cross examination to the knowledge of the petitioner and the proceedings have already initiated in this regard. Let the aforesaid instructions be obtained in writing.

3. The only request additionally made now is that the cross examination may be permitted virtually since some transporters in question are located out of the State. This Court has no difficulty in this procedure being resorted to in the interests of economy of resources and time.

4. List on 27.06.2023 at the end of admission list, for production of copy of the written instructions with a copy served in advance upon the petitioner.

2. Today, written instructions from the office of the Assistant Commissioner of GST and Central Excise, Pollachi Division are filed reading as follows:

'With regard to the WP 18583, WP 18587 & WP 18589 of 2023 filed by M/s. Ambika Timber Depot, M/s. Sree Ashapura Saw Mill & M/s. Sree Laxmi Narayana Timbers Private Ltd, before the Hon'ble High Court of Madras, I am to state that I am the Adjudicating Authority in the SCNS involved in the above WPS and that my predecessor had granted Cross examination of the drivers/owners of the transport vehicles involved in the said cases, though, initially it was rejected along with the request for cross examination of the Investigating Officer. Notices were sent to all the 11 transporters involved in the case for the PH fixed on the first instance, which was very well known to the Tax Payers also.



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But none of the said transporters could attend the Hearing, even through virtual mode. The second Cross examination cum PH could not be conducted due to postponement of the same on the transfer of the Adjudicating authority. Presently, I intend to allow cross examination of the transport owners/drivers in line with the decision taken by my predecessor and also to accord them the facility to attend the PH through virtual mode, if need be by taking assistance from any of the field formations of our department at the place of their choice or convenience, if they do not have such facility on their own. Another two opportunities are to be notified for Cross Examination cum Personal Hearing, as per procedure before conclusion of the adjudication in the said cases. It is requested that the above facts may kindly be brought to the notice of the Hon'ble High Court.

3. A copy of the aforesaid written submissions has been supplied to the petitioner as well, who is satisfied with the procedure proposed to be followed by the Assessing Authority that aligns with the principles of natural justice. The petitioners thus, do not pursue the Writ Petitions filed, as conveyed by Mr.S.Kumaresan, learned counsel on record for the petitioner in both Writ Petitions.

4. Hence, the request for mandamus is rejected as it is unnecessary based on the discussion above. These Writ Petitions and the connected Miscellaneous Petitions are dismissed. No costs.

27.06.2023

Index : Yes / No

Speaking/non-speaking Order

Neutral Citation : Yes/No



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To
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The Assistant Commissioner of GST
O/o.Centrla goods & service tax,
Pollachi division,
Pollachi, Coimbatore District.



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Dr.ANITA SUMANTH,J.

Sl

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