IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19710 of 2023
and
W.M.P.Nos.19002 and 19004 of 2023

P.Sivakumar ... Petitioner

Vs.

1.Union of India,
Represented by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi - 110 001.

2.State of Tamil Nadu,
Represented by its Principal Secretary/
Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

3.The Commercial Tax Officer,
Kondalampatty Circle,
Salem. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, calling for the impugned order of the third respondent issued in GSTIN: 33BNSPS5926F1ZJ/2017-18 dated 27.01.2023 and quash the same.

For Petitioner	:	Mr.S.Jayaprakash
For Respondents	:	
For R2 & R3	:	Mr.TNC.Kaushik Additional Government Pleader

ORDER

Mr.TNC.Kaushik, learned Additional Government Pleader takes notice on behalf of the second and third respondents.

2. Although, it is informed that the issue involved in the present writ petition is a subject before the Division Bench of this Court and therefore, this case be tagged along with the cases pending before the Tax Bench in terms of the order passed in W.P.Nos.30974 of 2023 etc batch dated 20.03.2023, it is noticed that the petitioner has challenged the impugned order passed under Section 73 of the respective GST Act, 2017, wherein, a demand has been confirmed on the petitioner.

3. The impugned order states that as per entry 5 of Notification No.13/2017-Central Tax (Rate) dated 28.06.2017, on services supplied by the Central Government, State Government, Union Territory or local authorities to a business entity, GST has to be paid by the business entity as the recipient of services on reverse charge mechanism.

4. In the aforesaid batch of writ petitions, the petitioners therein have challenged vires of Sl.No.17(viii) of Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 as amended by para 1(e) of Notification No.27/2018-Central Tax (Rate) dated 31.12.2018 as unconstitutional and ultra vires of Article 246A of the Constitution of India and Sections 7 and 9 of the Central Goods and Service Tax Act, 2017. An interim order dated 20.03.2023, has been passed. However, it is noticed that in the present case, the petitioner has neither replied to the Show Cause Notice nor appeared for the personal hearing and therefore, the impugned order has been passed. There is no stay against operation of entry 5 of Notification No.13/2017-Central Tax (Rate) dated 28.06.2017.

5. There is no merits in the challenge to the impugned order in the writ petition. However, liberty is given to the petitioner to file a statutory appeal and also challenge the notification pursuant to which, the impugned order has been passed.

6. With the above liberty, this Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

05.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

1.The Secretary,
Union of India,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi - 110 001.

2.Principal Secretary/
Commissioner of Commercial Taxes,
Government of Tamil Nadu,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

3.The Commercial Tax Officer,
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Salem.

C.SARAVANAN, J.

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and
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