IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **08.11.2023**

CORAM:

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. Nos.18949, 18952, 18954, 18965 & 18967 of 2023
and WMP Nos.18189, 18190, 18192, 18193, 18198, 18199, 18204 & 18205, 18207 & 18208 of 2023

M.Venkataraj ... Petitioners in all WPs

vs.

The Assistant Commissioner (ST)
Hosur (South) II Circle
Hosur ... Respondent in all WPs

Prayer : Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the orders bearing GSTIN.33AHBPV8870FIZ2 – 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021 – 2022, all dated 27.12.2022 by the respondent herein and quash the same.

For Petitioner	:	Mr.Adithya Reddy
For Respondent	:	Mr.V.Prashanth Kiran Government Advocate (Taxes)

COMMON ORDER

All these writ petitions are filed challenging the impugned orders dated 27.12.2022 passed by the respondent herein.

2. The petitioner is registered under the provisions of TNGST Act and has been running his business in the name and style of "Sri Malleswara Enterprises" and has been filing returns and paying taxes. While so, the respondent had issued an intimation on 03.11.2022 under Section 74(5) alleging tax due under Section 9 (1) & Section 9(3) of the Act. The demand was raised based on the seigniorage fee details allegedly collected from the Mines Department which showed that the petitioner did not show the correct turn over of disposal of minerals and the seigniorage fee paid to the department. Therefore, a demand was proposed on forward charge for alleged suppressed turnover and on reverse charge for seigniorage fees.

3. The grievance expressed by the petitioner was that he has filed annual returns wherein he has mentioned the seigniorage charges paid to the Department. The figures mentioned in the intimation did not belong to the petitioner and hence he had immediately approached the Mines Department for confirmation regarding the details. However, the respondent had issued the Show Cause Notice.

4. The learned counsel for the petitioner would submit that the intimations received by the petitioner from the Mines Department are matching with the returns filed with the respondent Department. As per the annual returns, they have paid the entire tax dues. However, the respondent now have re-determined the turn over so as to impose more tax on the petitioner based on the seigniorage charges details said to have been received by the respondent Department from the Mines Department. Since the petitioner also received the said details from the Mines Department and the same are matching with the annual returns filed by the petitioner, without providing above details of the application of seigniorage charges received by the Department, now the sales turnover has been determined by the respondent. In this regard, he would submit that he has filed a rectification application on 30.05.2023.

5. On the other hand, the learned Government Advocate would contend that the acknowledgement filed by the petitioner in the typed set of papers for having filed the rectification application on 03.04.2023 whereas, according to the petitioner, he has filed the application on 30.05.2023.

6. By way of reply, the learned counsel for the petitioner would submit that it would suffice if liberty is granted to the petitioner to pursue the rectification application and the Court may direct the respondent to dispose of the said application to enable the petitioner to file reply to the impugned orders.

7. The learned Government Advocate would submit that no such application has been filed by the petitioner and in the event of any such application is being filed by the petitioner, the same would be considered.

8. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Taxes) appearing for the respondent and perused the materials on record.

9. Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Taxes) appearing for the respondent, since the petitioner has restricted his submission to the extent of disposal of the rectification application dated 30.05.2023 filed by him or any other applications, if any already filed, the respondent is directed to dispose of the rectification application filed

by the petitioner, within a period of three months from the date of receipt of a copy of this order.

10. With the above direction, all these writ petitions are disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

08.11.2023

Index: Yes/No
Speaking/Non-Speaking Order
Neutral Citation: Yes/No.
rgr

To

The Assistant Commissioner (ST)
Hosur (South) II Circle
Hosur

KRISHNAN RAMASAMY, J.

rgr

W.P. Nos.18949, 18952, 18954, 18965 & 18967 of 2023

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