IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

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THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.19703, 19705 and 19707 of 2023
and
W.M.P.Nos.18993, 18995, 18997, 18998, 18999 & 19000 of 2023

Tvl.Samy Traders,
Represented by its Proprietor C.N.Ponnusamy,
East Street Main Road,
Ayyampalayam,
Pandamangalam Post,
Paramathy Velur Taluk – 637 213. ... Petitioner in all W.Ps

Vs.

The State Tax Officer,
Namakkal Rural Assessment Circle,
Namakkal. ... Respondents in all W.Ps

Prayer in W.P.No.19703 of 2023: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent in GSTN:33AGAPP0652R1Z6/2018-19 dated 16.03.2023 and quash the same as being without jurisdiction and authority of law.

Prayer in W.P.No.19705 of 2023: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent in GSTN:33AGAPP0652R1Z6/2019-20 dated 16.03.2023 and quash the same as being without jurisdiction and authority of law.

Prayer in W.P.No.19707 of 2023: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent in GSTN:33AGAPP0652R1Z6/2020-21 dated 16.03.2023 and quash the same as being without jurisdiction and authority of law.

For Petitioner (in all W.Ps)	: Mr.R.Senniappan
For Respondents (in all W.Ps)	: M/s.E.Ranganayagi Special Government Pleader

COMMON ORDER

M/s.E.Ranganayagi, learned Special Government Pleader takes notice on behalf of the respondents.

2. The petitioner has challenged three separate orders passed against the petitioner on 16.03.2023 for the Assessment Years 2018-2019, 2019-2020 and 2020-2021 under Section 65(6) of the GST Act.

3. As per Section 65(6) of the GST Act, on conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings and as per Section 65(7) of the respective GST Act, where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under Section 73 or Section 74.

4. Pursuant to the three audit report under Section 65(6) of the respective GST enactment, the petitioner has been issued with three separate notices for the respective Assessment orders on 28.12.2022. In all the notices issued under Section 73 of the Act, on 28.12.2022, the amounts are specified for the respective years.

5. By the impugned notices, the petitioner has been called upon to explain the reasons for the discrepancies, within fifteen days from the receipt of the notice and also appear before the undersigned for personal hearing on 12.01.2023 at 11.00 AM before the concerned officer namely, The State Tax

Officer, Namakkal (Rural). The said notice also states that if no explanation are received from the petitioner by the aforesaid date, it will be presumed that the petitioner has nothing to say in the matter and proceedings in accordance with law may be initiated against the petitioner without making further reference to the petitioner in this regard.

6. The petitioner has filed these writ petitions on 27.06.2023, after remaining mute in response to the proceedings that were initiated under Section 73(5) read with Rule 142(1)(a). Therefore, there is no merits in these writ petitions.

7. These are the proceedings are in consequences of the proceedings initiated under Section 65 of the GST Act. Sub-clause 6 and 7 of Section 65 of the Act makes it very clear, that on conclusion of the audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings. As per Sub-clause 7 of Section 65 of the Act, the respondents has to proceed either in accordance with Section 73 or 74.

8. In this case, there is no case for invocation of extended period of limitation and therefore the notice under Section 73 has been issued to which the petitioner has been called upon to appear after giving a reply within a period of 15 days.

9. Therefore, there is no merits in the present writ petitions. However, liberty is given to the petitioner to file a reply. In case, the petitioner wants to avail the benefit of Section 73(5) read with 73(A), the petitioner is at liberty to pay the disputed tax/input tax. However, such payment will be subject to final determination by the respondents.

10. These writ petitions are dismissed with the above liberty. No costs. Consequently, connected miscellaneous petitions are closed.

11.07.2023

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

The State Tax Officer,
Namakkal Rural Assessment Circle,
Namakkal.

C.SARAVANAN, J.

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