IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.Nos.23946, 23950, 23954, 23959, 23962 and 23965 of 2023
and
W.M.P.Nos.23449, 23451, 23454, 23455, 23459, 23460, 23464, 23465, 23468, 23470, 23472 and 23473 of 2023

W.P.No.23946 of 2023:-

Tvl.S.P.Muthu Constructions,
Rep by its Partner,
S.Elumalai, S/o.Somasundaram,
No.39, 3rd Main Road,
Rajalakshmi Nagar,
Chennai – 600 042. ... Petitioner

Vs

The Commercial Tax Officer,
Velachery Assessment Circle,
Room No.234, 2nd Floor,
The Integrated Building for Commercial Taxes and Registration Department,
(South Tower), Nandanam,
Chennai – 600 035. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the respondent in GSTIN/33AAHFS6210P1ZZ/2017-2018 dated 10.07.2023 and to quash the same as illegal, arbitrary and violation of principles of natural justice.

For Petitioner (in all W.Ps)	: Mr.K.M.Malarmannan
For Respondent (in all W.Ps)	: Mr.V.Prashanth Kiran Government Advocate

COMMON ORDER

Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondent.

2. By this common order, all these writ petitions are being disposed of with the consent of the learned Government Advocate for the respondent at the time of admission after dispensing with the requirement to file a counter in these respective writ petitions.

3. In these writ petitions, the petitioner had challenged the impugned orders passed under Section 74 of the TNGST Act, 2017 on

12.07.2023 for the Assessment Years 2017-2018 and rest of the Assessment years starting from 2018-2019 to 2021-2023 on 12.07.2023. The petitioner submits that dispute has arisen on account of mis-match in GSTR 3B and GSTR 1 and other returns. It is submitted that the petitioner is pre-dominantly engaged in supplying services to Government bodies.

4. It is submitted that notices were issued during the month of May. It is further submitted that on 10.05.2023, the petitioner was issued with a notice in DRC-01A and followed by a notice in DRC-01 dated 30.05.2023 for these Assessment years. It is submitted that although the petitioner has respondent to these notices and appeared for personal hearing on 20.06.2021, the petitioner had requested for the documents which have not been furnished. The learned counsel for the petitioner therefore prays for one opportunity to explain the case before the respondents. Hence, prays for setting aside of the impugned orders.

5. The learned Government Advocate for the respondents submits that after the above mentioned notices were issued for personal hearing

was held on 20.06.2023. It is submitted that the petitioner's counsel namely Thiru.R.Loganathan appeared in person and submitted a letter dated 13.06.2023 and requested the Assessing Officer to take the same as the submission at the time of personal hearing and pass orders in accordance with law with the provisions of the TNGST Act, 2017. It is therefore submitted that there is no merits in the present writ petition.

6. That apart, it is submitted that after the order for the Assessment Year 2017-2018 was passed and received by the petitioner on 10.07.2023, the petitioner sent a further representations on the same day asking for time not only for the Assessment Year 2017-2018 but also for the rest of the Assessment year. Hence, it is submitted that there is no merits in the present writ petition.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondents.

8. The dispute has arisen only on account of mis-match in the returns and the information gathered by the Commercial Tax Department. Ordinarily, the petitioner should have been relegated to file a Statutory Appeal before the Appellate Authority interms of section 107 of the TNGST Act, 2017 along with pre-deposit of 10% of the disputed tax in terms of Section 107(6).

9. Considering the fact that there are several disputed question of facts and to balance the interest of the revenue and the interest of the petitioner, one opportunity is given to the petitioner to explain the case within a period of two months from the date of receipt of a copy of this order. The petitioner shall however pre-deposit 20% of the disputed tax within a period of 30 days from the date of receipt of a copy of this order. The respondents shall dispose the case on merits and in accordance with law within a period of eight weeks thereafter.

10. These writ petitions stand disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

14.08.2023

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

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Room No.234, 2nd Floor,
The Integrated Building for Commercial
Taxes and Registration Department,
(South Tower), Nandanam,
Chennai – 600 035.

C.SARAVANAN,J.
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