



W.P.No.1796 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.1796 of 2023
and
W.M.P.No.1908 of 2023

P.Varadhan

... Petitioner

Vs.

1.The Government of India,
Rep. by its Secretary,
Ministry of Finance,
New Delhi - 110 001.

2.The Commissioner of GST & Central Excise,
Salem Commissionerate,
No.1, Foulkes Compound,
Anaimedu, Salem - 636 001.

3.The Assistant Commissioner of GST & Central Excise,
Salem I Division, No.106, 3rd Floor, Varalakshmi Orchid,
Ramakrishna Road, Salem - 636 007.

4.Office of the Executive Engineer P.W.D. (C&M),
Salem.

5.The Commissioner of Panchayat and Municipality,
Magudanchavadi, Sankari Tk, Salem.

6.The Commissioner of Panchayat and Municipality,
Eddapadi, Salem.



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7. Office of the Executive Engineer, P.W.D. (C&M),
Medical Works, Salem.

8. Additional Director / Project Director, DRDA,
Collectorate, Salem - 636 001.

9. The Executive Engineer, PWD Ground Water Division,
Adaikal Nagar, Salem - 7.

10. Executive Engineer, Agriculture Engineering Department,
Namakkal.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 3rd respondent in respect of the show cause notice SCN.SI.No.10/2022 (ACSLM-I) dated 16.04.2022 and quash the same and consequently direct the 1st respondent to grant the petitioner exemption from payment of the service tax in respect of the works contract service other than for commercial work rendered to the Government, Local Bodies, Statutory Authorities, etc., with effect from 01.04.2015 within the stipulated time as fixed by this Court.

For Petitioner : Mr.C.Balaji

For Respondents : Mr.K.Mohana Murali
Senior Panel Counsel

ORDER

The petitioner has challenged the impugned show cause notice dated 16.04.2022 issued by the third respondent in this Writ Petition. The



petitioner has already sent a reply to the impugned show cause notice on 20.10.2022.

2. It is settled law that a show cause notice can be challenged only if the same has been issued without jurisdiction, without Authority under Law or has predetermined the issue.

3. The petitioner has challenged the impugned show cause notice primarily on the ground that the same is barred by limitation. Infact, he has already sent a reply to the same as early as on 20.10.2022. The question of entertaining this Writ Petition at this stage, that too when the petitioner has already sent a reply in the month of October, 2022 itself, will not arise.

4. The only relief that can be granted to the petitioner is to permit him to send an additional reply, stating the grounds which have been raised in this Writ Petition, to the respondents and to direct the respondents to consider the same on merits and in accordance with law and only thereafter pass final orders, pursuant to the impugned show cause notice dated 16.04.2022. No prejudice would be caused to any of the parties, if such a



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direction is issued by this Court.

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5. For the foregoing reasons, this Writ Petition is disposed of by permitting the petitioners to send an additional reply to the impugned show cause notice, raising the grounds which have been raised in this Writ Petition, to the third respondent within a period of one week from the date of receipt of a copy of this order. On receipt of the said additional reply from the petitioner, the third respondent shall pass final orders on merits and in accordance with law, with regard to the impugned show cause notice dated 16.04.2022, within a period of eight weeks thereafter.

6. With the aforementioned directions, this Writ Petition is disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

24.01.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To
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Rep. by its Secretary,
Ministry of Finance,
New Delhi - 110 001.
- 2.The Commissioner of GST & Central Excise,
Salem Commissionerate,
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ABDUL QUDDHOSE. J.,

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