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W.P.(MD).Nos.7559 and 7560

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.7559 and 7560 of 2023

and

W.M.P.(MD).Nos.7043, 7045, 7051 and 7054 of 2023

W.P.(MD).No.7559 of 2023:

M/s.Bharathi L V Constructions,
Represented by its Proprietor,
E.Kamala Devi

... Petitioner

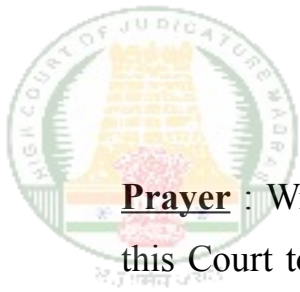
Vs.

1.The Deputy Assistant Commissioner of GST and Central Excise,
Office of the Assistant Commissioner of GST,
and Central Excise-Tiruchirappalli I Division,
No.1, Williams Road Cantonment,
Trichy – 620 001.

2.The Chief Manager,
State Bank of India,
Personal Banking Branch,
7, State Bank Road, Cantonment,
Tiruchirappalli – 620 001.

3.The Branch Managr,
Canara Bank,
Anbagam Building,
Puttur High Road,
Tiruchirappalli – 620 017.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in original No.09/2022-ST dated 31.01.2022 issued by the first respondent and quash the same as it is in gross violation of principles of natural justice, judicial discipline, is arbitrary, perverse and violative of Articles 14 and 19(1) (g) of the Constitution and consequently direct the first respondent to repay the recovered amount.

W.P.(MD).No.7560 of 2023:

M/s.Bharathi L V Constructions,
Represented by its Proprietor,
E.Kamala Devi

... Petitioner

Vs.

1.The Deputy Assistant Commissioner of GST and Central Excise,
Office of the Assistant Commissioner of GST,
and Central Excise-Tiruchirappalli I Division,
No.1, Williams Road Cantonment,
Trichy – 620 001.

2.The Chief Manager,
State Bank of India,
Personal Banking Branch,
7, State Bank Road, Cantonment,
Tiruchirapalli – 620 001.

3.The Branch Managr,
Canara Bank,
Anbagam Building,
Puttur High Road,
Tiruchirapalli – 620 017.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order in Rectification of Mistakes Order No.01/2023-ST (ROM) dated 20.03.2023, issued



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by the first respondent and quash the same as illegal, arbitrary and violative of the principles of natural justice.

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(In Both Writ Petitions):

For Petitioner	: Mr.S.Muthu Venkataraman
For R-1	: Mr.N.Dilip Kumar, Senior Standing Counsel.
For R-2	: Mr.C.Karthik, Standing Counsel.
For R-3	: Mr.P.Pethu Rajesh, Standing Counsel.

COMMON ORDER

The Writ Petition in W.P.(MD).No.7559 of 2023 is filed to quash the order dated 31.01.2022 issued by the first respondent and consequently direct the first respondent to repay the recovered amount. The Writ Petition in W.P.(MD).No.7560 of 2023 is filed to quash the impugned order in Rectification of Mistakes Order No. 01/2023-ST (ROM) dated 20.03.2023, issued by the first respondent.

2. The contention of the petitioner is that the order-in-original was passed without giving opportunity to the petitioner and it is an ex-parte order. The contention of the petitioner is that the notice issued by the respondent was not received by the petitioner due to various reasons. However, the notice which was



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served to the petitioner returned to the respondents as unclaimed. The fact remains that the petitioner was not granted sufficient opportunity and the petitioner has not availed the opportunity. In the meanwhile, the respondents have attached the petitioner's bank account and all the tax liability, penalty, interest are recovered from the petitioner's Bank account. There is no revenue loss. The petitioner is claiming one more opportunity.

3. Therefore, this Court is of the considered opinion that the petitioner is entitled to get one more opportunity. The petitioner is directed to file an appeal within a period of four (4) weeks from the date of receipt of a copy of this order. The appellate authority shall consider the appeal within a period of four (4) months therefrom.

4. With the above direction, the Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

24.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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To

- 1.The Deputy Assistant Commissioner of GST and Central Excise,
Office of the Assistant Commissioner of GST,
and Central Excise-Tiruchirappalli I Division,
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- 2.The Chief Manager,
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S.SRIMATHY, J.

Nsr

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