BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2023

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)Nos.21343 to 21348 of 2023
and
W.M.P(MD)Nos. 17745 to 17754, 17758 & 17760 of 2023

M/s.Srinithi Enterprises Private Limited,
Represented by its Director. ... Petitioner in all Writ Petitions

Vs.

1. The State Tax Officer (Intelligence),
Adjudication -1/Group-IV,
O/o.the Deputy Commissioner (ST),
Commercial Taxes Building,
Dr. Thangaraj Salai,
K.K.Nagar,
Madurai-625020.

2. The Assistant Commissioner Intelligence,
Commercial Taxes Building,
Dr.Thanagaraj Salai,
Madurai – 625 020. ... Respondents in all Writ Petitions

[This Court Suo motu added the 2nd respondent in all the Writ Petitions as per Order of this Court, dated 01.09.2023].

PRAYER W.P.(MD)No.21343 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorari***, to call for the records pertaining to the impugned Order, dated 12.06.2023 in GSTIN/33AANCS6254Q1ZL/2017-18 issued by the Respondent and quash the same.

<u>In all Writ Petitions:</u>

For Petitioner	:	Mr.Hari Radhakrishnan
For Respondents	:	Mr.A.K.Manikkam, Special Government Pleader

<u>COMMON ORDER</u>

Since the issue involved in these Writ Petitions are similar in nature both the writ petitions are taken up together and disposed of by a Common order.

2. These Writ Petitions have been filed to quash the impugned Assessment order and the impugned rectification order on two grounds.

3. Heard Mr.Hari Radhakrishnan, the Learned counsel appearing on the petitioner and Mr.A.K.Manikkam, the Learned Special Government Pleader appearing on the respondents. Perused the material documents available on record.

4. The impugned order was passed by the 1st Respondent/State Tax Officer (Intelligence). As per Circular No.72/2019 dated 31.05.2019 and Circular No.23/2021 dated 04.10.2021, the 1st respondent has no empower to pass assessment order, but the 1st respondent had passed the impugned assessment order. Since the 1st respondent has passed the impugned order, it will be violated the principles of natural justice. However, the Learned Special Government Pleader appearing for the respondents submitted that the Circular was passed, subsequently, the Assessment order was passed prior to that.

5. The next ground that was raised by the petitioner is that there is a pecuniary jurisdiction fixed as per Circular, dated 08.11.2022. In the said Circular, only the Assistant Commissioner is having jurisdiction, wherever, the revenue effect exceeds Rs.2 Crore. The State Tax Officer is having jurisdiction upto Rs.2 Crore. In the present, the revenue effect is beyond Rs.2 Crores and therefore, only the Assistant Commissioner is having power to pass the Assessment order. Therefore, this Court is of the considered opinion that based on the second contention the impugned order is liable to be quashed and accordingly quashed. This Court Suo Motu implead the Assistant Commissioner of GST and Central Excise, as 2nd respondent.

6. These matters are remitted back to the 2nd respondent/Assistant Commissioner. The 2nd respondent is directed to consider the petitioners' case and pass orders, within a period of 3 months from the date of receipt of a copy of the order.

7. With the above said observations and directions, these Writ Petitions are allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No **01.09.2023**
Internet : Yes
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To

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O/o.the Deputy Commissioner (ST),
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Madurai-625020.

2. The Assistant Commissioner Intelligence,
Commercial Taxes Building,
Dr.Thanagaraj Salai,
Madurai – 625 020.

<u>S.SRIMATHY, J</u>

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Common Order made in
W.P.(MD)Nos.21343 to 21348 of 2023

01.09.2023