



WEB COPY



W.P.No.627 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.627 of 2024
and W.M.P.Nos.643 & 645 of 2024

Rama Reddy Palaksha
No.48/2D, NA, Pasiyampani Village
Thogarapalli Via Krishnagiri TK, Krishnagiri
Tamil Nadu 635 102.

... Petitioner

-VS-

State Tax Officer (FAC)
Krishnagiri-2 Assessment Circle
SF.No.559/5, Ground floor, Kallukkurukki Village,
Saamanthamalai Post, Ramapuram (SO),
Collector Office Backside,
Krishnagiri - 635 115.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records in the Impugned Order bearing incomplete date read with Order bearing reference number ZD331023058873I issued in Form GST-DRC-07 dated 11.10.2023 to quash the same and direct the



W.P.No.627 of 2024

respondent to keep the recovery proceedings arising out of the said impugned proceedings at abeyance, in view of the Stay granted by the Hon'ble Supreme Court in *Lakhwinder Singh vs Union of India* WP Writ Petition (Civil) No.1076 of 2021.

For Petitioner : Mr.V.Veeraraghavan

For Respondent : Mr.V.Prasanth Kiran, GA (T)

ORDER

By this writ petition, the petitioner assails the assessment order issued under the Tamil Nadu Goods and Services Tax Act, 2017 in relation to the imposition of GST under the reverse charge mechanism on the seigniorage paid by the petitioner to the Government.

2. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. He has placed on record the recent judgment of the Division Bench of this Court in a batch of writ petitions, *A.Venkatachalam v. Assistant Commissioner (ST), Palladam II*



W.P.No.627 of 2024

Assessment Circle, Palladam, W.P.Nos.30974 of 2022 batch. In the said judgment, the following directions were issued at paragraph 9 thereof:

"9. In these circumstances, we deem it fit and appropriate to issue the following directions:

(i) In the cases, where the challenge is made to the show cause notices, the writ petitioners shall submit their objections / representations within a period of four weeks from the date of receipt of a copy of this order.

(ii) Upon receipt of the objections / representations from the writ petitioners, the authority concerned shall proceed with the adjudication, on merits and in accordance with law, after affording reasonable opportunity of being heard to the petitioners. However, the orders of adjudication shall be kept in abeyance until the Nine Judge Constitution Bench decides the issue as to the nature of royalty.

(iii) It is made clear that there shall be no recovery of GST on royalty until the Nine Judge Constitution Bench takes a decision.

(iv) Needless to state that on the matters being decided, the writ petitioners if still aggrieved, shall redress their grievance(s), if any, before



W.P.No.627 of 2024

the appropriate forum, including by filing appeal(s).

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(v) Insofar as the challenge to the notification as well as the circular, it is open to the writ petitioners to act upon, after the outcome of the case pending before the Nine Judge Constitution Bench.

(vi) It is also made clear that all the contentions are left open for the writ petitioners to raise in appropriate proceedings, after the outcome of the decision of the Nine Judge Constitution Bench."

3. In view of the above judgment, this petition is liable to be disposed of on the same terms. Accordingly, W.P.No.627 of 2024 is disposed of in terms of directions issued in paragraph 9 of *A.Venkatachalam v. Assistant Commissioner*. No costs. Consequently, W.M.P.Nos.643 and 645 of 2024 are closed.

16.02.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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To
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SENTHILKUMAR RAMAMOORTHY,J

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