



WEB COPY



WP Nos.11333 to 11336 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

WP Nos.11333 to 11336 of 2011

Sujatha Vijayakumar

: Petitioner in all writ petitions

versus

1.The Union of India,
rep. By the Secretary to Government,
Ministry of Finance,
Department of Revenue, New Delhi

2.The Government of Tamil Nadu,
rep. By its Secretary,
Commercial Taxes Department,
Fort St.George, Chennai 2

3.The Commercial Tax Officer
Office of the Commercial Tax Officer,
Luz Assessment Circle,
NO.46, P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram,
Chennai 600028

: Respondents in all writ petitions

Prayer: WP Nos.11333 and 11334 of 2011 filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the impugned notice in Rc.No.1180/2002/A1 TNGST/2001-02; Rc.No.1181/2002/A1 TNGST/2002-03 dated 17.06.2002 on the file of the third respondent and quash the same.

WP No.11335 of 2011 filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring Entry 46 of Part D of the first Schedule of TNGST Act 1959 insofar as it provides for levy of sales tax on customised IT software as ultra vires Entry 54 of List II of the Seventh Schedule to and Article 14, 19(1)(g) and 245 of the Constitution of India.



WP Nos.11333 to 11336 of 2011

WP No.11336 of 2011 filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring Section 65(105)(zzzm) of the Finance Act, 1994 as ultra vires Entry 54 of List II of the Seventh Schedule to and Article 14, 19(1)(g) and 245 of the Constitution of India.

For Petitioner : Mr.K.Magesh

For Respondent No.1 : Mr.AR.L.Sundaresan,
Additional Solicitor-General
assisted by Mr.V.Sundareswaran

For Respondents 2, 3 : Mr.Haribabu,
Additional Government Pleader,
assisted by Mr.M.Venkaeswaran,
Special Government Pleader

COMMON ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.K.Magesh, learned counsel for the petitioner, Mr.AR.L.Sundaresan, learned Additional Solicitor-General, for the first respondent and Mr.Haribabu, learned counsel for respondents 2 and 3.

2. Learned counsel for the petitioner, on instructions, submits that the petitioner in the present writ petition would not press his challenge to the *vires* of the provisions and the same be kept open. He further submits that time be granted to file reply to the show-cause notice.

3. The petitioner may file reply to the show-cause notice within three weeks from today. If reply is filed by the petitioner within three weeks from today,



WP Nos.11333 to 11336 of 2011

then the respondent authorities shall consider the reply filed by the petitioner before adjudicating upon the show-cause notice issued to the petitioner. In that event, all contentions of the respective parties are kept open.

4. The writ petition stands disposed of. There shall be no order as to costs. Consequently, MP Nos.1 and 2 of 2011 (2 Nos.) are closed.

(S.V.G., C.J.)

(J.S.N.P., J.)

17.04.2024

Index : Yes/No
Neutral Citation : Yes/No
tar

To

1.The Secretary to Government,
Ministry of Finance,
Department of Revenue, New Delhi

2.The Secretary,
Commercial Taxes Department,
Fort St.George, Chennai 2

3.The Commercial Tax Officer
Office of the Commercial Tax Officer,
Luz Assessment Circle,
No.46, P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram, Chennai 600028



WEB COPY



WP Nos.11333 to 11336 of 2011

THE HON'BLE CHIEF JUSTICE

AND

J.SATHYA NARAYANA PRASAD, J.

(tar)

WP Nos.11333 to 11336 of 2011

17.04.2024