IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM :

**THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.937 & 967 of 2024
and
W.M.P.Nos.972, 975, 1012 & 1015 of 2024

Tvl. R S Transport,
Rep. by its proprietor Smt. Subramanian Santhi,
112/1 Arasan Kadu, Sangakiri Main Road,
Ottametthai, Pallipalayam Agraharam,
Namakkal - 638 008. ... Petitioner
(in both W.P's)

Versus

The Assistant Commissioner (Sales Tax),
Pallipalayam Assessment Circle,
Namakkal. ... Respondent
(in both W.P's)

**Prayer in W.P.No.937 of 2024**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records pertaining to the impugned order ZD330523096332J dated 19.05.2023 issued by the respondent and quash the same.

**Prayer in W.P.No.967 of 2024**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records pertaining to the impugned order ZD3305230963767 dated 19.05.2023 issued by the respondent and quash the same.

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| For Petitioner | : | Mr. Durairaj Sethuraman |
| For Respondent | : | Mr. Prashanth Kiran,<br>Government Advocate (Tax) |

**ORDER**

In these two writ petitions, assessment orders dated 19.05.2023 with regard to two distinct assessment periods are assailed primarily on the ground that principles of natural justice were breached.

2. The petitioner is an entity engaged in providing mining and transportation services only to a Government undertaking. In relation thereto, pursuant to show cause notices dated 07.03.2023 & 22.03.2023, respectively, the impugned assessment orders were issued.

3. Learned counsel for the petitioner submits that the show cause notices and the impugned assessment orders were uploaded in the "View Additional Notices and Orders" tab on the GST portal. On account of lack of computer knowledge, it is stated that the petitioner did not access the notices and, therefore, could not reply thereto.

4. Mr. V. Prashanth Kiran, learned Government Advocate, appears on behalf of the respondent. With reference to the impugned orders, he points out that a personal hearing was offered to the petitioner

on 15.03.2023 & 30.03.2023, respectively, but the petitioner failed to attend the same. Therefore, he submits that interference is not warranted.

5. On instructions, learned counsel for the petitioner submits that the petitioner is willing to remit 10% of the disputed tax demand for each assessment period as a condition for remand.

6. The impugned assessment orders indicate that the petitioner was not heard before such orders were issued. The tax liability arises out of alleged discrepancies in turnover between the GSTR 7 & 3B returns. If the petitioner had been heard, the petitioner may have been in a position to place all relevant documents to endeavour to provide a satisfactory explanation for the discrepancies. Solely for such reason, I am of the view that the impugned assessment orders call for interference by putting the petitioner on terms.

7. Therefore, the impugned assessment orders are quashed subject to the condition that the petitioner remits 10% of the disputed tax demand for each assessment period within a period of two weeks from the

date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of such reply and upon being satisfied that 10% of the disputed tax demand for each assessment period was received, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh assessment orders within a period of two months from the date of receipt of the petitioner's reply.

8. The assessment officer is directed to act on the basis of web copies submitted by the petitioner.

9. These Writ Petitions are disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

**12.03.2024**
**(1/2)**

Index : Yes
Speaking Order : Yes
Neutral Case Citation: Yes

klt

To

The Assistant Commissioner (Sales Tax),
Pallipalayam Assessment Circle,
Namakkal.

**SENTHILKUMAR RAMAMOORTHY,J**

klt

W.P.Nos.937 & 967 of 2024
and
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**(1/2)**