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W.P.Nos.1251, 1255, 1258 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.1251, 1255 and 1258 of 2024
and W.M.P.Nos.1310, 1300, 1301, 1302, 1303, 1307 of 2024

Sri Guberan Steels
41/NA, Sivalpuri Amman Nagar,
Coimbatore 641 027.
Rep. by its Proprietor

... Petitioner in all WP's

-VS-

The Assistant Commissioner (ST)
Thudiyalur Circle,
Coimbatore 641 018.

... Respondent in all WP's

PRAYER in W.P.No.1251 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent leading to passing of Impugned order dated 31.07.2023 vide GSTIN: 33AHTPR7225E2Z2 / 2019-20 and quash the same.



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PRAYER in W.P.No.1255 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent leading to passing of Impugned order dated 31.07.2023 vide GSTIN: 33AHTPR7225E2Z2 / 2020-21 and quash the same.

PRAYER in W.P.No.1258 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent leading to passing of Impugned order dated 31.07.2023 vide GSTIN: 33AHTPR7225E2Z2 / 2021-22 and quash the same.

For Petitioner : Mr.S.Sathiyarayanan
in all WP's

For Respondents : Mr.C.Harsha Raj, AGP (T)
in all WP's



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COMMON ORDER

In these three writ petitions, the petitioner assails the assessment order in respect of financial years 2019-20, 2020-21 and 2021-22, respectively. The petitioner states that he is a registered person under applicable GST laws. Pursuant to a surprise inspection, it is stated that the petitioner received an intimation in Form DRC-01A and a show cause notice in Form DRC-01. The petitioner replied to the intimation by pointing out that the relevant books are not available with the petitioner as regards defect no.2, which pertains to the difference in outward taxable turnover between GSTR-3B, GSTR-1 and e-way bills. By a subsequent reply dated 03.07.2023 to the personal hearing notice, the petitioner reiterated that the books of accounts, e-way bills and invoices are with the Superintendent, Office of the Assistant Commissioner of GST and Central Excise, Coimbatore Division-II and, therefore, the petitioner is unable to



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produce documentary evidence in support of movement of goods and payment details. The impugned assessment orders were issued in the above facts and circumstances.

2. Learned counsel for the petitioner invited my attention to the orders impugned herein and pointed out that the claim relating to circular trading could not be dealt with by the petitioner on account of non availability of relevant documents to establish purchase, movement of goods and payments. He also pointed out that the petitioner informed the respondent about such non availability both in reply dated 07.01.2023 and the later reply dated 03.07.2023. By submitting that the petitioner has subsequently received the relevant documents, learned counsel submits that the petitioner should be provided an opportunity to establish that the purchases were genuine.

3. Mr.C.Harsha Raj, learned Additional Government Pleader,



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accepts notice for the respondent. He submits that the impugned order is a reasoned order issued after taking into consideration the petitioner's replies. For instance, he points out that the claim made in respect of defect no.3, which pertains to cancellation of e-way bills, was dropped upon consideration of the reply of the petitioner on 07.01.2023 and submissions made during the hearing. He also points out that the receipt of documents that were previously in the custody of the Central GST Authorities would have no bearing as regards defect no.1, which pertains to the difference between GSTR-3B and GSTR-2A. Although the order is a composite order, Mr.C.Harsha Raj, learned Additional Government Pleader, submits that any infirmity therein with regard to specific defects can be more appropriately addressed in a statutory appeal.

4. When reply dated 07.01.2023 and 03.07.2023 are considered cumulatively, it follows that the petitioner informed the respondent that he is unable to reply to defect no.2 and the circular trading defect



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on account of non availability of relevant documents. The impugned order also records that the petitioner could not respond to these defects as a result of non availability of documents. As correctly contended by Mr.C.Harsha Raj, learned Additional Government Pleader, it is likely that these documents may not have a bearing as regards defect no.1. Nonetheless, a composite order of assessment was issued with regard to four defects and the documents on record disclose that the non availability of records, on account of such documents being in the custody of the Central GST authority, undoubtedly impacted the petitioner's ability to respond to two defects. In exercise of discretionary jurisdiction, I am of the view that interference is warranted in this case because the non availability of documents, for reasons outlined above, impacted two out of the three defects in respect of which an order adverse to the petitioner was issued. Therefore, solely with a view to provide an opportunity to the petitioner to respond to these defects, the impugned order calls for interference.



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5. For reasons set out above, the impugned orders are quashed and the matter is remanded for re-consideration. The petitioner shall submit all relevant documents within a maximum period of *three weeks* from the date of receipt of a copy of this order. Upon providing a reasonable opportunity to the petitioner after receipt of such documents, the assessing officer shall issue fresh assessment orders within a maximum period of *four months* thereafter.

6. W.P.Nos.1251, 1255 and 1258 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.1310, 1300, 1301, 1302, 1303, 1307 of 2024 are closed.

22.01.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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The Assistant Commissioner (ST)
Thudiyalur Circle, Coimbatore 641 018.

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SENTHILKUMAR RAMAMOORTHY,J

rna

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