IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.1852, 1856, 1859, 1862 & 1865 of 2024
and W.M.P.Nos.1923, 1926, 1932, 1936 & 1941 of 2024

In all W.Ps.

Tvl.S.Sundaramoorthy Bluemetals,
Represented by its Proprietor,
Mr.S.Sundaramoorthy,
S/o.Late Srinivasan, aged 65 years,
No.399, Sridevi Kuppam Mettu Street,
Anjour Thenambakkam,
Kancheepuram-631 501. ... Petitioner

-vs-

The State Tax Officer,
O/o.The Joint Commercial (ST),
Intelligence – II,
No.1, Room No.104,
PAPJM Buildings, Chennai-600 006. ... Respondent

Prayer in W.P.No.1852 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in Audit Slip No.1 proposing to levy tax under Section 74 of TNGST Act, 2017 in Reference No:GST INS CH2 Sl.No.151/2023-2024/Grp-IV/Int-II dated 28.12.2023 on the file of the respondent relating to the Financial Year 2018-2019 and quash the same.

Prayer in W.P.No.1856 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in Audit Slip No.2 proposing to levy tax under Section 74 of TNGST Act, 2017 in Reference No:GST INS CH2 Sl.No.151/2023-2024/Grp-IV/Int-II dated 28.12.2023 on the file of the respondent relating to the Financial Year 2019-2020 and quash the same.

Prayer in W.P.No.1859 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in Audit Slip No.3 proposing to levy tax under Section 74 of TNGST Act, 2017 in Reference No:GST INS CH2 Sl.No.151/2023-2024/Grp-IV/Int-II dated 28.12.2023 on the file of the respondent relating to the Financial Year 2020-2021 and quash the same.

Prayer in W.P.No.1862 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in Audit Slip No.4 proposing to levy tax under Section 74 of TNGST Act, 2017 in Reference No:GST INS CH2 Sl.No.151/2023-

2024/Grp-IV/Int-II dated 28.12.2023 on the file of the respondent relating to the Financial Year 2021-2022 and quash the same.

Prayer in W.P.No.1865 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in Audit Slip No.5 proposing to levy tax under Section 74 of TNGST Act, 2017 in Reference No:GST INS CH2 Sl.No.151/2023-2024/Grp-IV/Int-II dated 28.12.2023 on the file of the respondent relating to the Financial Year 2022-2023 and quash the same.

In all WPs.

For Petitioner : Mr.I.Dinesh
for Baskar G.

For Respondent : Mr.V.Prasanth Kiran
Government Advocate (T)

COMMON ORDER

By these writ petitions, the petitioner assails the Audit Slips dated 28.12.2023 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 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 wrt 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 the appropriate forum, including by filing appeal(s).

(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, these petitions are liable to be disposed of on the same terms. Accordingly, W.P.Nos.1852, 1856, 1859, 1862 & 1865 of 2024 are disposed of in terms of directions

issued in paragraph 9 of *A.Venkatachalam v. Assistant Commissioner*. No costs. Consequently, connected miscellaneous petitions are closed.

28.02.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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To

The State Tax Officer,
O/o.The Joint Commercial (ST),
Intelligence – II,
No.1, Room No.104,
PAPJM Buildings, Chennai-600 006.

SENTHILKUMAR RAMAMOORTHY,J.

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