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W.P.Nos.2746, 2763 & 2766 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition Nos.2746, 2763 & 2766 of 2024
and W.M.P.Nos.3019, 3020, 3026, 3028, 3029 & 3031 of 2024

In all WPs.

Murugesan Jayalakshmi

... Petitioner

-VS-

State Tax Officer,
Medavakkam Assessment Circle,
Integrated Commercial and Registration Building,
Room No.232, II Floor, Nandanam,
Chennai-600 035.

... Respondent

Prayer in W.P.No.2746 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in Order in Reference No.ZD3311230505304 passed under Section 74 of the TNGST Act, 2017 for the period 2017-2018 dated 08.10.2023 and quash the same as illegal and not in accordance with law and consequently, direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

Prayer in W.P.No.2763 of 2024: Writ Petition filed under Article 226 of



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the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in Order in Reference No.ZD3311230505510 passed under Section 74 of the TNGST Act, 2017 for the period 2017-2018 dated 08.10.2023 and quash the same as illegal and not in accordance with law and consequently, direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

Prayer in W.P.No.2766 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in Order in Reference No.ZD331123050542Z passed under Section 74 of the TNGST Act, 2017 for the period 2019-2020 dated 08.10.2023 and quash the same as illegal and not in accordance with law and consequently, direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

In all WPs.

For Petitioner : Mr.Sivaraman R.

For Respondent : Mr.C.Harsha Raj, AGP (T)

COMMON ORDER

In these three writ petitions, separate assessment orders, each dated



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08.10.2023, are assailed.

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2. The common petitioner states that she is the proprietrix of M/s.Jayalakshmi Agencies, which is engaged in the business of supply of steel and construction materials. According to the petitioner, she was unaware of the notices and the impugned assessment orders until she received an oral intimation from the office of the respondent in December 2023. In those circumstances, these writ petitions are filed by asserting breach of principles of natural justice.

3. Learned counsel for the petitioner submits that the intimation, show cause notice and assessment orders were posted in the 'View Additional Notices' tab on the GST portal. Since such documents were earlier uploaded on the 'View Notices' tab on the portal, it is stated that the petitioner was unaware of the proceedings. Learned counsel further submits that the matter relates to reversal of Input Tax Credit (ITC) and that it would be necessary for the petitioner to place relevant documents on record and, if necessary, cross-examine persons whose statements were relied upon by the assessing



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officer. Therefore, he submits that the appellate remedy would be inadequate for such purpose.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. By pointing out that the intimation was issued on 21.03.2023, the show cause notice on 10.04.2023 and the impugned order on 08.10.2023, he submits that the explanation provided by the petitioner cannot be accepted. As a registered person under the GST regime, learned Additional Government Pleader submits that the petitioner cannot be excused for not accessing the portal for almost nine months. He further submits that the petitioner should be directed to avail of the statutory remedy.

5. The documents on record disclose that the respondent issued both an intimation in Form GST DRC-01A and the show cause notice in Form GST DRC-01 and reminders before issuing the impugned assessment orders. Admittedly, these notices and assessment orders were uploaded on the 'View Additional Notices' tab in the GST portal. Earlier, such notices and orders



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were uploaded on the 'View Notices' tab. It was also brought to my notice that the GST authorities have redesigned the dashboard of the portal in January 2024 and clearly specified the type of notices and orders which may be viewed under the 'View Notices' tab and the 'View Additional Notices' tab.

6. In the above circumstances, solely with a view to provide an opportunity to the assessee to contest the proceedings, the impugned orders call for interference, albeit by putting the petitioner on terms.

7. Therefore, the orders impugned herein are quashed subject to the condition that the petitioner remits sums equal to 7.5% of the disputed tax demand under each assessment order within a period of four weeks from the date of receipt of a copy of this order. Subject to the receipt of such sums, the assessing officer is directed to reconsider the matter after providing a reasonable opportunity to the petitioner, including a personal. In the event of default in complying with the above condition, it will be open to the petitioner to initiate recovery proceedings in terms of the impugned



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assessment orders. If the condition is complied with, the assessing officer is directed to issue fresh assessment orders within a period of four weeks from the date of receipt of fulfillment of the condition by the petitioner.

8. The writ petitions are disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.02.2024

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

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To

State Tax Officer,
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Integrated Commercial and Registration Building,
Room No.232, II Floor, Nandanam,
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SENTHILKUMAR RAMAMOORTHY,J



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