IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.2728 of 2024
and W.M.P.No.3003 of 2024

N.Arumugam ... Petitioner

-vs-

The Deputy State Tax Officer,
Intelligence, Hosur Division,
No.3/47, Sapthagiri Complex,
Commercial Taxes Building,
Hosur-635 109. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the respondent herein in Ref:NIL and quash the impugned proceedings dated 19.01.2024 passed therein.

For Petitioner : Mr.B.Raveendran

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

ORDER

By this writ petition, the petitioner assails the intimation issued under Section 74(5) of the Tamil Nadu Goods and Services Tax Act, 2017 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, this petition is liable to be disposed of on the same terms. Accordingly, W.P.No.2728 of 2024 is disposed of in terms of directions issued in paragraph 9 of *A.Venkatachalam v. Assistant Commissioner*. No costs. Consequently, W.M.P.No.3003 of 2024 is closed.

28.02.2024

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

The Deputy State Tax Officer,
Intelligence, Hosur Division,
No.3/47, Sapthagiri Complex,
Commercial Taxes Building,
Hosur-635 109.

SENTHILKUMAR RAMAMOORTHY,J.

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