IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.4150, 1747 & 4359 of 2024
and W.M.P.Nos.4691, 1795, 1797, 4512, 4693 & 4514 of 2024

M/s.MRM Construction
Rep: by its Managing Partner,
184/1, Thakkolam Koot Road,
Parameshwaramangalam,
Chennai 631 151, Tamil Nadu. ... Petitioner in all WP's

-vs-

1.State Tax Officer (Intelligence),
Legal and Revision - Vellore
Vellore District.

2.State Tax Officer (Inspection - 1),
Villupuram, Camp @ Vellore
Vellore District.
... 1st and 2nd Respondents in W.P.4150, 4359 of 2024

1.State Tax Officer (FAC),
Arakkonam Assessment Circle,
Arakkonam, Tiruvallur District.

2.Deputy State Tax Officer,
Arakkonam Assessment Circle,
Arakkonam, Tiruvallur District.
... 1st and 2nd Respondents in W.P.1747 of 2024

3.Branch Manager
Federal Bank,
40, Trunk Road, Poonamallee,
Chennai. ... 3rd Respondent in all WP's

PRAYER in W.P.No.4150 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his proceedings in GSTIN: 33ABDFM8950F1Z9/2021-22 dated 07.06.2023 and to quash this impugned proceedings as arbitrary, illegal, without jurisdiction and direct the second respondent to redo the assessment proceedings in GSTIN: 33ABDFM8950F1Z9/2021-22 dated 07.06.2023 and pass fresh orders as per the circular instructions of the Finance Department Government of India in Circular No.183/15/27.12.2022 GST dated 27.12.2022.

PRAYER in W.P.No.1747 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in his proceedings 1st cited in GSTIN: 33ABDFM8950F1Z9/2018-19 dated 18.07.2023 and to quash this impugned proceedings as arbitrary, illegal, without jurisdiction and direct the first respondent to set aside the assessment proceedings in GSTIN: 33ABDFM8950F1Z9/2018-19 dated 18.07.2023 and pass fresh orders as per the circular instruction of the Finance Department Government of India in Circular No.183/15/27.12.2022 GST dated 27.12.2022.

PRAYER in W.P.No.4359 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his proceedings 1st cited in GSTIN: 33ABDFM8950F1Z9/2020-21 dated 07.06.2023 and to quash this impugned proceedings as arbitrary, illegal, without jurisdiction and direct the second respondent to redo the assessment proceedings in GSTIN: 33ABDFM8950F1Z9/2020-21 dated 07.06.2023 and pass fresh orders as per the circular instructions of the Finance Department Government of India in Circular No.183/15/27.12.2022 GST dated 27.12.2022, Circular No.136/06/2020-GST and Circular No.141/11/2020 dated 24.06.2020.

For Petitioner in all WP's : Mr.C.Baktha Siromoni

For Respondents 1, 2 in all WP's : Mr.T.N.C.Kaushik, AGP (T)

For Respondent 3 in all WP's : Mr.A.V.Radhakrishnan

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COMMON ORDER

In these three writ petitions, separate orders dated 07.06.2023 are challenged on the ground that the petitioner did not have reasonable opportunity to contest the tax demand. The petitioner states that he is a civil works contractor undertaking constructions work. It is further asserted that the petitioner was allotted to the Central GST authorities, but that proceedings were initiated by the State GST authorities.

2. Learned counsel for the petitioner submits that the bank account of the petitioner was attached pursuant to orders impugned herein and that the petitioner is put to great hardship because the petitioner is unable to discharge payment obligations, including salary payment obligations. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand in respect of each order.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, appears on behalf of the first and second respondents and Mr.A.V.Radhakrishnan, learned counsel, appears on behalf of the

Federal Bank. Mr.T.N.C.Kaushik, learned Additional Government Pleader, points out that the petitioner was assigned to the State GST authorities. He also points out that the orders impugned herein were issued after providing sufficient opportunities to the petitioner.

4. On perusal of orders impugned herein, it is evident that such orders were issued without hearing the petitioner on the merits of the tax proposals. In these circumstances, especially by taking note of the fact that the petitioner's bank accounts were attached, it is just and appropriate to provide an opportunity to the petitioner by putting the petitioner on terms.

5. Therefore, orders impugned in these writ petitions are set aside subject to the condition that the petitioner remits 10% of the disputed tax demand in respect of each order within ***three 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 the petitioner's reply and on being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within ***three months*** from the date of receipt of the petitioner's reply. In view of the assessment orders being set aside, the bank attachment is raised.

6. W.P.Nos.4150, 1747 & 4359 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.4691, 1795, 1797, 4512, 4693 and 4514 of 2024 are closed.

22.04.2024

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

To

1.State Tax Officer (Intelligence),
Legal and Revision - Vellore
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2.State Tax Officer (Inspection - 1),
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SENTHILKUMAR RAMAMOORTHY,J

rna

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