



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 26.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.4271, 4273, 4279, 4283, 4286, 4287, 4288, 4340, 4352, 4409,
1615, 1619, 1621, 1623, 1625, 3828, 3202, 3972, 4039, 4066, 3838, 3840,
3848, 3850, 3852, 4275, 4290 & 4272 of 2024
and W.M.P.Nos.4579, 4581, 4596, 4601, 4603, 4605, 4606, 4671, 4672,
4683, 4684, 4748, 4751, 1650, 1652, 1655, 1659, 1660, 4160, 3462, 4289,
4361, 4134, 4389, 4148, 4157, 4154, 4149, 4588, 4591, 4608 4580 & 4582
of 2024

W.P.No.4271 of 2024:

S.Madhu,
Proprietor of Tvl. Mahalakshmi Blue Metal,
Door No.12, Eden Garden,
Thalli Road,
Hosur, Hosur Taluk,
Krishnagiri District.

... Petitioner

-VS-

The Deputy State Tax Officer,
Intelligence, Hosur Division,
Office of the Joint Commissioner (ST) (Intelligence),
3/47, Sapthagiri Complex, Commercial Taxes Building,
2nd Floor, Gandhi Nagar, Near Five Star Petrol Bunk,
Hosur 635 109.

... Respondent



WEB COURT

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to the impugned Notice of the Respondent in Ref: GSTIN: 33AFLPM0649H1ZG, dated 22.01.2024 for levy of GST on the lease amount for grant of mining lease, quash the same.

For Petitioner : Mr.V.Sanjeevi
in W.P.4271, 4273, 4279, 4283, 4286, 4287,
4288, 3838, 3840, 3848, 3850, 3852, 3202, 3972, 3828,
4066, 4039 of 2024

For Petitioner : Mr.B.Raveendran
in W.P.4340, 4352, 4409, 1615, 1619, 1621,
1623, 1625, 4272, 4275, 4290 of 2024

For Respondent : Mrs.K.Vasanthamala, GA (T)
in W.P.4271, 4273, 4340, 4066 of 2024

For Respondent : Mr.V.Prasanth Kiran, GA (T)
in W.P.4279, 4283, 4287, 4288, 4352, 4409, 1615,
1619, 1621, 1623, 1625, 3838, 3840, 3848, 3850, 3828,
3852, 3202, 3972, 4272, 4275, 4290 of 2024

For Respondent : MrT.N.C.Kaushik, AGP (T)
in W.P.4039 of 2024



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COMMON ORDER

In all these writ petitions, the respective petitioner has assailed the summons, intimation or show cause notice, as the case may be, communicating the GST liability under applicable GST laws either in respect of only seigniorage fee or both seigniorage fee and mining lease amounts paid by the respective petitioner to the Government.

2. Learned counsel for the respective petitioner rely on Notification No.13/2017 - Central Tax (Rate) insofar as the claim relates to GST on mining lease and point out that services supplied by the Central, State Government or local authority to a business entity by way of renting of immovable property is excluded from GST. Reliance is also placed on interim orders issued by the Hon'ble Supreme Court in a batch of cases, including SLP(C) No.37326 of 2017. The Supreme Court has granted an interim stay not only in respect of royalty but also in respect of mining lease. It is stated that



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the nine judge bench is scheduled to hear the batch of cases tomorrow.

3. Learned counsel further placed for consideration the Division Bench Judgment in a batch of cases where the lead case is *A.Venkatachalam v. Assistant Commissioner (ST), Palladam*, in W.P.No.30974 of 2022.

4. The Division Bench of this Court issued the following directions at paragraph 9 of the judgment:

"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 writ 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



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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."

5. In view of the said judgment, these petitions are liable to be disposed of on the same terms insofar as it relates to either the issue of seigniorage fee or mining lease. Consequently, in all these cases, the respective petitioner is permitted to submit his reply to the intimation, summons or show cause notice, as the case may be, within a maximum period of *four weeks* from the date of receipt of a copy of this order. To the extent that other issues were also raised in



the respective intimation, summons or show cause notice, assessment proceedings in respect thereof may proceed in accordance with law.

6. W.P.Nos.4271, 4273, 4279, 4283, 4286, 4287, 4288, 4340, 4352, 4409, 1615, 1619, 1621, 1623, 1625, 3828, 3202, 3972, 4039, 4066, 3838, 3840, 3848, 3850, 3852, 4275, 4290 and 4272 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.4579, 4581, 4596, 4601, 4603, 4605, 4606, 4671, 4672, 4683, 4684, 4748, 4751, 1650, 1652, 1655, 1659, 1660, 4160, 3462, 4289, 4361, 4134, 4389, 4148, 4157, 4154, 4149, 4588, 4591, 4608 4580 and 4582 of 2024 are closed.

26.02.2024

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

To

The Deputy State Tax Officer,

6/8



Intelligence, Hosur Division,
Office of the Joint Commissioner (ST) (Intelligence),
3/47, Sapthagiri Complex, Commercial Taxes Building,
2nd Floor, Gandhi Nagar, Near Five Star Petrol Bunk,
Hosur 635 109.

SENTHILKUMAR RAMAMOORTHY,J



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