IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.5456, 5459, 5460 & 5463 of 2024
and W.M.P.Nos.6024, 6026, 6028, 6029, 6031, 6032, 6034 & 6035 of 2024

Tvl. Sri Amman Blue Metals,
(Represented by its Managing Partner,
Mr.C.Rajkumar),
Ganapathipatti Village, Paraiyapatti - Post,
Harur Taluk, Dharmapuri District,
Tamil Nadu 635 305. ... Petitioner in all WP's

-vs-

The Deputy State Tax Officer (also known
as the Deputy Commercial Tax Officer),
Harur Assessment Circle. ... Respondent in all WP's

PRAYER in W.P.No.5456 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the Respondent in Reference No. ZD3310231264430 dated 20.10.2023 for the tax period APR 2019 -

MAR 2020 and quash the same.

PRAYER in W.P.No.5459 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the Respondent in Reference No. ZD331023126571Z dated 20.10.2023 for the tax period APR 2020 - MAR 2021 along with the Annexure in GST No. 33ACFFS7257Q1ZE / 2020-21 dated 18.10.2023 and quash the same.

PRAYER in W.P.No.5460 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the Respondent in Reference No. ZD331023126661Y dated 20.10.2023 for the tax period APR 2021 - MAR 2022 along with the Annexure in GST No. 33ACFFS7257Q1ZE / 2021-22 dated 18.10.2023 and quash the same.

PRAYER in W.P.No.5463 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the Respondent in Reference No.

ZD331023126777J dated 20.10.2023 for the tax period APR 2022 - OCT 2022 along with the Annexure in GST No. 33ACFFS7257Q1ZE / 2022-23 dated 18.10.2023 and quash the same.

For Petitioner in all WP's	:	M/s.K.A.Parthasarathy, N.Chandirasekar
For Respondent in all WP's	:	Mr.V.Prasanth Kiran, GA (T)

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COMMON ORDER

In all these writ petitions, assessment orders pertaining to distinct assessment periods are challenged. The petitioner is involved in quarrying and mining of rough stone. As a registered person, the petitioner filed returns under applicable GST statutes. In relation thereto, in response to intimations and show cause notices, the petitioner submitted replies. The orders impugned herein were issued thereafter.

2. Learned counsel for the petitioner invited my attention to the assessment orders. He pointed out that two issues were dealt with in these assessment orders. The first issue pertains to the levy of GST on reverse charge basis on seigniorage fees. The second issue relates to levy of GST on forward charge basis based on sales turnover. He points out that the assessment orders proceed on the basis of the tentative sales turnover, whereas the petitioner had declared a higher taxable turnover and paid taxes on that basis. Therefore, he contends that the impugned assessment orders warrant interference insofar as the imposition of GST on forward charge basis is concerned. As regard seigniorage charges, he submits that the judgment of the Division Bench squarely applies.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts

notice for the respondent. He submits that the petitioner was provided sufficient opportunity and that the impugned orders record that the petitioner failed to avail of personal hearing although offered thrice by the assessing officer. Hence, he submits that these writ petitions are liable to be rejected.

4. Insofar as the assessment orders deal with seigniorage charges, the directions issued in paragraph 9 of the Division Bench judgment squarely apply. However, with regard to the imposition of GST on forward charge basis on turnover, the impugned assessment orders record the objections of the petitioner. The objection, in each case, is based on the declared taxable turnover of the petitioner. The petitioner contends that taxes were paid on the basis of the declared taxable turnover and that, therefore, the impugned assessment orders were issued mechanically without application of mind.

5. On examining the impugned assessment orders, especially

the extraction of the petitioner's objections with regard thereto, the contention of learned counsel for the petitioner is liable to be accepted. As a consequence, on this aspect, the impugned assessment orders call for interference.

6. Accordingly, the assessment orders impugned herein are quashed only insofar as such orders deal with the imposition of GST on forward charge basis on the turnover. Consequently, these matters are remanded for re-consideration on such aspect. The assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh assessment orders on the above mentioned aspect within a maximum period of ***two months*** from the date of receipt of a copy of this order.

7. W.P.Nos.5456, 5459, 5460 and 5463 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.6024, 6026, 6028, 6029, 6031, 6032, 6034 and 6035 of 2024 are closed.

05.03.2024

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

To

The Deputy State Tax Officer (also known
as the Deputy Commercial Tax Officer),
Harur Assessment Circle.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.Nos.5456, 5459, 5460 & 5463 of 2024
and W.M.P.Nos.6024, 6026, 6028,
6029, 6031, 6032, 6034 & 6035 of 2024

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