IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.5228 of 2024
and W.M.P.Nos.5745 & 5749 of 2024

G.Perumal,
Proprietor of GPT Blue Metals,
S.F.No.270/1, 2, 3, 4, Thuppuganapalli,
Shoolagiri, Krishnagiri 635 119. ... 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

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 dated 02.02.2024 in Form GST DRC-01A in Ref GSTIN 33AFSPP9752M2ZG, for levying GST on the Seigniorage fee / Royalty paid for quarrying and transporting mineral for the financial year 2017-18 to 2022-23, quash the same.

For Petitioner : Mr.V.Sanjeevi

For Respondent : Mr.V.Prasanth Kiran, GA (T)

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ORDER

In this writ petition, the petitioner has assailed the intimation, communicating the GST liability under applicable GST laws in respect of both seigniorage fee and mining lease amounts paid by the respective petitioner to the Government.

2. Learned counsel for the petitioner relies on Notification No.13/2017 - Central Tax (Rate) insofar as the claim relates to GST on mining lease and points 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 the nine judge bench is scheduled to hear the batch of cases.

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. Mr.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent.

5. 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 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."

6. In view of the said judgment, this petition is 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 this case, the petitioner is permitted to submit his reply to the intimation within a maximum period of ***four weeks*** from the date of receipt of a copy of this order.

7. W.P.No.5228 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.5745 and 5749 of 2024 are closed.

04.03.2024
(3/4)

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

To

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.

SENTHILKUMAR RAMAMOORTHY,J

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(3/4)