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.5513, 5519, 5522 & 5526 of 2024
and W.M.P.Nos.6093, 6095, 6098, 6099, 6102, 6103, 6106 & 6108 of 2024

The N.V.P.Metal Trading Company,
Rep. by its Authorized Signatory,
S F 157 B, 10, M s Nagar, Kurichi Pirivu,
Podanur Main Road, Coimbatore,
Tamil Nadu 641 023. ... Petitioner in all WP's

-vs-

The Assistant Commissioner (ST),
Podanur Assessment Circle, Pollachi,
Coimbatore, Tamil Nadu. ... Respondent in all WP's

PRAYER in W.P.No.5513 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the impugned assessment order in Ref. No.

ZD330923244215J dated 29.09.2023 u/s.74 of the CGST / TNGST Act, 2017 uploaded along with summary of order in DRC-07 dated 29.09.2023 for the tax period 2018-19 from the files of the respondent herein, quash the same.

PRAYER in W.P.No.5519 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the impugned assessment order in Ref. No. ZD330923243932A dated 29.09.2023 u/s.74 of the CGST / TNGST Act, 2017 uploaded along with summary of order in DRC-07 dated 29.09.2023 for the tax period 2019-20 from the files of the respondent herein, quash the same.

PRAYER in W.P.No.5522 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the impugned assessment order in Ref. No. ZD33092323506D dated 29.09.2023 u/s.74 of the CGST / TNGST Act, 2017 uploaded along with summary of order in DRC-07 dated 29.09.2023 for the tax period 2020-21 from the files of the respondent herein, quash the same.

PRAYER in W.P.No.5526 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the impugned assessment order in Ref. No. ZD330923244044M dated 29.09.2023 u/s.74 of the CGST / TNGST Act, 2017 uploaded along with summary of order in DRC-07 dated 29.09.2023 for the tax period 2021-22 from the files of the respondent herein, quash the same.

For Petitioner in all WP's : Ms.Aparna Nandakumar

For Respondent in all WP's : Mr.V.Prasanth Kiran, GA (T)

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COMMON ORDER

In these writ petitions, assessment orders dated 29.09.2023 are challenged. The petitioner is a registered person under applicable

GST laws. An inspection was conducted in December 2021 at the registered place of business of the petitioner. Thereafter, the proceedings culminating in the impugned assessment orders were initiated by show cause notices issued in January 2023. The petitioner asserts that he was unaware of these proceedings until he received a phone calls from the respondent's office stating that he was in arrears of tax and penalty. By this time, it is stated that the period of limitation for filing an appeal, even with an application for condonation of delay, had expired.

2. Learned counsel for the petitioner submits that the period of delay beyond the condonable period is only about 22 days as on the date of filing the writ petitions. She further submits that the petitioner has a good case on merits because the conclusion that the petitioner purchased inputs from a non-existent dealer is false. She also points out that the petitioner was sick during the time of initiation of proceedings and was undergoing treatment for peptic

ulcers.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the petitioner participated in proceedings pursuant to the inspection in December 2021 and that, therefore, the writ petition is liable to be rejected.

4. The documents on record disclose that the impugned assessment orders were issued on 29.09.2023. The three month period for filing an appeal expired on 28.12.2023. The further period of one month for condonation expired on or about 29.01.2024. These writ petitions were filed on 13.02.2024. If the time subsequent thereto is excluded, the actual period of delay beyond the condonable period is limited. In the overall facts and circumstances, I am of the view that these are appropriate cases to permit the petitioner to submit statutory appeals subject to fulfilment of pre-deposit requirements in that regard.

5. Therefore, these writ petitions are disposed of by permitting the petitioner to present statutory appeals before the appellate authority provided such appeals are presented within a maximum period of ***ten days*** from the date of receipt of a copy of this order. If statutory appeals are presented within the time frame specified above, the appellate authority is directed to consider and dispose of the same on merits without going into the question of limitation.

6. W.P.Nos. 5513, 5519, 5522 and 5526 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos. 6093, 6095, 6098, 6099, 6102, 6103, 6106 and 6108 of 2024 are closed.

05.03.2024

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

To

The Assistant Commissioner (ST),
Podanur Assessment Circle, Pollachi,
Coimbatore, Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.Nos.5513, 5519, 5522 & 5526 of 2024
and W.M.P.Nos.6093, 6095, 6098, 6099,
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