



W.P.Nos.5624, 5631 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 06.03.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.5624 & 5631 of 2024
and W.M.P.Nos.6221, 6216, 6217 & 6222 of 2024

Mr.Karubala Munisamy Gopalaiah,
Proprietor of Sri Thirumala Earth Movers,
4/861-1, Sembarasanapalli, Karubala,
Hosur, Krishnagiri,
Tamil Nadu 635 117.

... Petitioner in both WP's

-vs-

The Deputy State Tax Officer,
Intelligence, Hosur Division,
Hosur.

... Respondent in both WP's

PRAYER in W.P.No.5624 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, calling for the records on the files of the Respondent in herein in Form GST DRC-01A in Ref. No. ZD330124153465O for the tax period Apr 2021 - Mar 2022 and quash the same.



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PRAYER in W.P.No.5631 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, calling for the records on the files of the Respondent in herein in Form GST DRC-01A in Ref. No. ZD330124153484O for the tax period Apr 2022 - Mar 2023 and quash the same.

For Petitioner : Mr.K.A.Parthasarathy, N.Chandirasekar
in both WP's for Mr.N.Prasad

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

COMMON ORDER

In these writ petitions, 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 petitioner to the Government.



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2. Learned counsel 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.

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

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



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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."

5. In view of the said judgment, these petitions are liable to be disposed of on the same terms. Consequently, in these cases, the petitioner is permitted to submit his reply to the intimation within a



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maximum period of *four weeks* from the date of receipt of a copy of this order.

6. W.P.Nos.5624 and 5631 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.6221, 6216, 6217 and 6222 of 2024 are closed.

06.03.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Deputy State Tax Officer,
Intelligence, Hosur Division,
Hosur.



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SENTHILKUMAR RAMAMOORTHY,J

rna

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