IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.5963 of 2024
and
W.M.P.No.6623 of 2024

M/s.Sri Rajaganapathy Blue Metal,
Rep. by its Proprietor,
B.Pandidurai,
No.B1-1/24A, V.P.R. Apartments,
5th Cross, Narayana Nagar,
Kitchipalayam,
Salem – 636 015. ...Petitioner

-Vs-

State Tax Officer (FAC),
Roving Squad Intelligence,
O/o.Joint Commissioner (ST) Intelligence,
Pitchards Road 2nd Floor,
Hastampatti, Salem. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari, calling for the records of the respondent in PAN:AGWPP8815C (2021-22) dated 29.12.2023 and quash the same.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Tax)

ORDER

By this writ petition, the petitioner assails the summons issued under Section 70 of the Tamil Nadu Goods and Services Tax Act, 2017 in relation to the imposition of GST under the reverse charge mechanism on the seigniorage paid by the petitioner to the Government.

2. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. He has placed on record the recent judgment of the Division Bench of this Court in a batch of writ petitions, ***A.Venkatachalam vs. Assistant Commissioner (ST), Palladam II Assessment Circle, Palladam, W.P.Nos.30974 of 2022 batch***. In the said judgment, the following directions were issued at paragraph 9 thereof:

> *"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 wrt 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."

J.SATHYA NARAYANA PRASAD, J.

3. In view of the above judgment, this petition is liable to be disposed of on the same terms. Accordingly, **W.P.No.5963 of 2024 is disposed of in terms of directions issued in paragraph 9 of** ***A.Venkatachalam vs. Assistant Commissioner***. No costs. Consequently, connected miscellaneous petition is closed.

08.03.2024

cda
Index : Yes/No
Speaking/Non Speaking order

To

State Tax Officer (FAC),
Roving Squad Intelligence,
O/o.Joint Commissioner (ST) Intelligence,
Pitchards Road 2nd Floor,
Hastampatti, Salem.

W.P.No.5960 of 2024