IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 11.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.6139 of 2024
and W.M.P.No.6797 of 2024

I.D.Alaudeen Batcha ... Petitioner

-vs-

The Deputy State Tax Officer,
Intelligence, Hosur Division,
O/o.The Joint Commissioner (ST) (Intelligence),
3/47, Sapthagiri Complex,
Commercial Taxes Building, IInd 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 19.01.2024 in Form GST DRC-01 in RefL GSTIN: 33AJKPA2676D1ZL/2017-18 to 2020-21 dated 19.01.2024, for levying GST on the Seigniorage fee /

Royalty paid for quarrying and transporting mineral for the Tax period 2017-18 to 2020-21, 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 show cause notice in Form GST DRC-01 calling upon the petitioner to show cause with regard to GST liability under applicable GST laws in respect of both seigniorage fee and turnover from sale of quarried minerals.

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.V.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 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, this petition is liable to be disposed of on the same terms as regards the imposition of GST on seigniorage fee. With regard to GST on turnover, the parties shall proceed further in accordance with law. Consequently, in this case, the petitioner is permitted to submit his reply to the show cause notice within a maximum period of ***four weeks*** from the date of receipt of a copy of this order.

6. W.P.No.6139 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.6797 of 2024 is closed.

11.03.2024

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

To

The Deputy State Tax Officer,
Intelligence, Hosur Division,
O/o.The Joint Commissioner (ST) (Intelligence),
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SENTHILKUMAR RAMAMOORTHY,J

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