IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.6213 of 2024
and
W.M.P.Nos.6885 & 6887 of 2024

Tvl.DR & Sons
Represented by its Proprietor R.Udhayarajan
No.59, East Jones Road,
Saidapet, Chennai – 600 015. ...Petitioner

-Vs-

The Deputy State Tax Officer – RS-II,
Chengalpattu Intelligence Division,
No.16A, First Floor, First Main Road,
Anna Nagar, Chengalpattu – 603 002. ...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 impugned proceedings of the respondent in Reference No.ZD330124050623W in GST ASMT – 10 dated 11.01.2024 along with Form GST ASMT – 10 in GST:33AAAPU4146P1ZC/2019-20 dated 11.01.2024 and quash the same.

For Petitioner : Mr.Rukmani Venugopalan

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.6213 of 2024 is disposed of in terms of directions issued in paragraph 9 of *A.Venkatachalam vs. Assistant Commissioner***. No costs. Consequently, connected miscellaneous petitions are closed.

08.03.2024

cda
Index : Yes/No
Speaking/Non Speaking order

To

The Deputy State Tax Officer – RS-II,
Chengalpattu Intelligence Division,
No.16A, First Floor, First Main Road,
Anna Nagar, Chengalpattu – 603 002.

W.P.No.6213 of 2024