IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.6154, 6161, 6186 & 6192 of 2024
and W.M.P.Nos.6851, 6815, 6816, 6817, 6818, 6819, 6860, 6862, 6814, 6854, 6856 & 6858 of 2024

Sri Vedhachalam Contractor,
S.No.3/45, Kondappanayanapalli Village,
Bargur Taluk - 635 104. ... Petitioner in all WP's

-vs-

The Assistant Commissioner (ST),
Krishnagiri II Circle,
Hosur. ... Respondent in all WP's

PRAYER in W.P.No.6154 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 respondent in GSTIN: 33ACIPV8414D1ZL/2017-18 and quash the impugned proceeding dated 23.08.2023 passed therein.

PRAYER in W.P.No.6161 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 respondent in GSTIN: 33ACIPV8414D1ZL/2018-19 and quash the impugned proceeding dated 23.08.2023 passed therein.

PRAYER in W.P.No.6186 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 respondent in GSTIN: 33ACIPV8414D1ZL/2019-20 and quash the impugned proceeding dated 23.08.2023 passed therein.

PRAYER in W.P.No.6192 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 respondent in GSTIN: 33ACIPV8414D1ZL/2020-21 and quash the impugned proceeding dated 23.08.2023 passed therein.

For Petitioner in all WP's : Mr.B.Raveendran

For Respondent : Mr.V.Prasanth Kiran

in all WP's

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COMMON ORDER

These writ petitions are directed against assessment orders dated 23.08.2023 in respect of distinct assessment periods. The petitioner is a civil contractor and a registered person under applicable GST enactments. Pursuant to a show cause notice, the petitioner requested for a month's time to file a reply. The petitioner also requested for a personal hearing. The impugned assessment orders were issued in the above facts and circumstances by recording that the petitioner neither filed objections nor attended the personal hearing.

2. Learned counsel for the petitioner submits that the tax demand in respect of all relevant assessment years arises out of alleged disparity between the GSTR-3B returns and the auto populated GSTR-2A returns. He also contends that Circular 183 was

not followed in this writ petition and the petitioner was not heard before orders were passed. In addition, learned counsel points out that the aggregate tax demand across these assessment years of Rs.41,02,146/- was appropriated by attaching the petitioner's bank account. He has placed on record the statement of account pertaining to the petitioner's bank account with the Indian Bank, Bargur, Dharmapuri District.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. By referring to the impugned assessment orders, he points out the petitioner was offered a personal hearing in August 2023, but that the petitioner failed to avail of such personal hearing.

4. The documents on record include the petitioner's reply in July 2023. By such reply, the petitioner requested for time to respond

to the show cause notice and also expressly requested for a personal hearing. Although the respondent cannot be faulted because the petitioner failed to reply on merits to the show cause notices, the assessment orders were admittedly issued without hearing the petitioner and without considering the objections or explanation of the petitioner. The entire tax demand across the relevant assessment years was recovered in this manner. Thus, at this juncture, revenue interest stands fully secured.

5. In these circumstances, I am inclined to interfere with the impugned assessment orders so as to provide an opportunity to the petitioner to contest the tax claims. Therefore, the impugned assessment orders are quashed and these matters are remanded for re-consideration. The petitioner is permitted to file a reply to the show cause notice within a maximum period of ***fifteen days*** from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue

fresh assessment orders within ***two months***. For the avoidance of doubt, it is made clear that amounts appropriated earlier shall abide by the outcome of the remanded proceedings.

6. W.P.Nos.6154, 6161, 6186 and 6192 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.6851, 6815, 6816, 6817, 6818, 6819, 6860, 6862, 6814, 6854, 6856 and 6858 of 2024 are closed.

11.03.2024

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

To

The Assistant Commissioner (ST),
Krishnagiri II Circle,
Hosur.

SENTHILKUMAR RAMAMOORTHY,J

rna

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