# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

CORAM:

**THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.Nos.8684, 8688, 8695, 8700 & 8703 of 2024 and W.M.P.Nos.9693, 9695, 9703, 9705, 9709, 9711, 9715, 9716, 9718 & 9720 of 2024**

**In all WPs.**

Sri Vaigai Glass House & Fabricators,
Represented by its Managing Partner,
No.700, Near KVB Bank,
Tirupur Road, Kangayam,
Tiruppur : 638 701. ...Petitioner

Vs.

The Deputy Commercial Tax Officer (ST),
Office of the Deputy Commercial Tax Officer (ST-1),
Kangayam Assessment Circle,
Kangayam, Karur, Erode,
Tamil Nadu. ... Respondent

**Prayer in W.P.No.8684 of 2024:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned order in Ref. No.ZD3303230879281 dated 17.03.2023 under section 74 of the CGST/TNGST Act, 2017 and uploaded along with the summary of the order in DRC07 for the Financial Year 2017-2018 from the files of the respondent and quash the same.

**Prayer in W.P.No.8688 of 2024:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned order in Ref. No.ZD330323086113T dated 17.03.2023 under section 74 of the CGST/TNGST Act, 2017 and uploaded along with the summary of the order in DRC07 for the Financial Year 2018-2019 from the files of the respondent and quash the same.

**Prayer in W.P.No.8695 of 2024:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned order in Ref. No.ZD330323088083M dated 17.03.2023 under Section 161 read with Section 74 of the CGST/TNGST Act, 2017 and uploaded the same along with DRC-08 for the Financial Year 2018-2019 from the files of the respondent and quash the same.

**Prayer in W.P.No.8700 of 2024:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned order in Ref. No.ZD3303230856396 dated 17.03.2023 under section 74 of the CGST/TNGST Act, 2017 and uploaded along with the summary of the order in DRC07 for the Financial Year 2019-2020 from the files of the respondent and quash the same.

**Prayer in W.P.No.8703 of 2024:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned order in Ref. No.ZD330323088166G dated 17.03.2023 under Section 74 of the CGST/TNGST Act, 2017 and uploaded along with the summary of the order in DRC07 for the Financial Year 2020-2021 from the files of the respondent and quash the same.

**In all WPs.**

For Petitioner : Ms.Aparna Nandakumar

For Respondents : Mr.V.Prashanth Kiran,
Government Advocate (T)

**COMMON ORDER**

These five writ petitions pertain to assessment orders relating to assessment periods 2017-2018, 2018-2019, 2019-2020 and 2020-2021.

2. The petitioner asserts that he was a registered person engaged in business relating to glasswares and glass fabricating materials. He had opted for the composition scheme under Section 10 of applicable GST enactments. In assessment periods 2017-2018 and 2018-2019, the petitioner asserts that he had filed returns. With effect from 06.11.2019, the GST registration of the petitioner was cancelled. In view of such cancellation, the petitioner asserts that he was unaware of proceedings relating to assessment for any of the four above mentioned assessment periods, since all notices and orders relating thereto were uploaded on the GST portal but not communicated to the petitioner through any other mode. The present writ petitions were filed in the above facts and circumstances.

3. Learned counsel for the petitioner referred to the order of cancellation dated 06.11.2019. She submitted that the petitioner was not

monitoring the portal in view of such cancellation. She also pointed out that Notification No.10/2019-Central Tax, dated 07.03.2019 (Notification No.10/2019) was issued exempting persons, who are engaged in the exclusive supply of goods and whose aggregate turnover in a financial year does not exceed Rs.40 lakhs, from obtaining registration. By pointing out that the petitioner's turnover did not exceed Rs.40 lakhs in assessment periods 2019-2020 and 2020-2021, learned counsel submitted that it was not necessary for the petitioner to obtain registration. Since the impugned orders were issued without providing a reasonable opportunity to the petitioner, learned counsel makes a request that these matters be remanded for reconsideration.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that even upon cancellation of registration, it is incumbent on the formerly registered person to monitor the GST portal from time to time. By referring to the impugned order in respect of the assessment period 2017-2018, he points out that the petitioner's outward supplies were assessed at Rs.50,77,875/-. He also submits that the assessment was undertaken on best judgment basis because the petitioner failed to participate in proceedings.

5. On account of the cancellation of the petitioner's GST registration on 06.11.2019, the petitioner would have had little reason to monitor the GST portal on an ongoing basis. The orders impugned herein indicates clearly that such orders were issued without hearing the petitioner.

6. As regards assessment periods 2017-2018 and 2018-2019, the exemption under Notification No.10/2019 was not available. Learned counsel for the petitioner submits that the petitioner agrees to remit 5% of the disputed tax demand as a condition for remand in assessment years 2017-2018 and 2018-2019. As regards the period subsequent thereto, she submits that the petitioner was entitled to exemption under Notification No.10/2019.

7. By taking into account the cancellation of registration with effect from 06.11.2019 and Notification No.10/2019, it is just and appropriate that the petitioner be provided an opportunity to contest the tax demand pertaining to the respective assessment period, albeit by putting the petitioner on terms with regard to assessment periods 2017-2018 and 2018-2019.

8. Therefore, the impugned assessment orders are quashed subject to the condition that the petitioner remits 5% of the disputed tax demand as regards assessment years 2017-2018 and 2018-2019 within a period of two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the respective show cause notice within the aforesaid period of two weeks. Upon receipt of the petitioner's reply and upon being satisfied that 5% of the disputed tax demand, in the aggregate, in respect of the assessment periods 2017-2018 and 2018-2019 were received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh assessment orders within a period of two months from the date of receipt of the petitioner's reply.

9. These writ petitions are disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

**01.04.2024**

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

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**SENTHILKUMAR RAMAMOORTHY,J.**

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To

The Deputy Commercial Tax Officer (ST),
Office of the Deputy Commercial Tax Officer (ST-1),
Kangayam Assessment Circle,
Kangayam, Karur, Erode,
Tamil Nadu.

W.P.Nos.8684, 8688, 8695, 8700 & 8703 of 2024 and
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