IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.17563, 17565, 17567 and 17568 of 2021
and
W.M.P.Nos.18669, 18671, 18672, 18673,
18675, 18676, 18684 and 18685 of 2021

M/s.S.R.S.Travels,
Represented by Megha B.R.,
Legal Heir of the deceased Sole Proprietor
Mr.K.T.Rajashekhara,
No.79, H.B.Samaja Road,
Basavangudi, Bangalore – 560 004.
(Petitioner substituted vide order of this
Court dated 06.12.2023 in W.M.P.Nos.33005,
33008, 33010 of 2023 in W.P.Nos.17563,
17565 and 17567 of 2021) ... Petitioner
in W.P.Nos.17563, 17565
and 17567 of 2021

M/s.S.R.S.Travels and Logistics
Private Limited,
Represented by its Authorized Signatory
Megha B.R.,
D/o.Mr.K.T.Rajashekhara,
No.6/21, Shriji Majestic Complex,
Kaliammankoil Street, Koyambedu,
Chennai – 600 107. ... Petitioner
in W.P.No.17568 of 2021

Vs.

The State Tax Officer,
Inspection Cell Group II,
Office of the DC (ST) Inspection II,
No.1, Greams Road, PAPJM Building,
Chennai – 600 006. ... Respondent in all W.Ps.

Prayer in W.P.No.17563 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order bearing **No.GSTIN/33ACOPR3818F1ZH/2019-2020** dated 22.01.2021 on the file of the respondent herein and quash the same.

Prayer in W.P.No.17565 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order bearing **No.GSTIN/33ACOPR3818F1ZH/2018-2019** dated 22.01.2021 on the file of the respondent herein and quash the same.

Prayer in W.P.No.17567 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order bearing **No.GSTIN/33ACOPR3818F1ZH/2017-2018** dated 22.01.2021 on the file of the respondent herein and quash the same.

Prayer in W.P.No.17568 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order bearing **No.33AARCS6955J1ZN/2019-2020** dated 22.01.2021 on the file of the respondent herein and quash the same.

For Petitioner (In all W.Ps)	:	M/s.T.Shrayashree
For Respondent (In all W.Ps)	:	Mr.T.N.C.Kaushik Additional Government Pleader

COMMON ORDER

These Writ Petitions are of the year 2021.

2. By this common order, all the four writ petitions are being disposed of.

3. This is the second round of litigation in respect of the Assessment Years 2017-2018, 2018-2019 and 2019-2020.

4. Earlier, the petitioner was issued with a Show Cause Notices dated 25.02.2020, 26.02.2020 and 28.02.2020. To the aforesaid Show Cause Notices, the petitioner replied partly. However, by an order dated 29.10.2020,

the demand was confirmed under Section 73 of the respective GST enactments against the petitioner.

5. These impugned Assessment Orders dated 29.10.2020 passed by the respondent for these Assessment Years was challenge before this Court in W.P.(MD) Nos.8443, 9175, 9178 and 9180 of 2021.

6. By two separate orders dated 01.04.2021 and 15.04.2021, this Court was pleased to set aside the order and remit the case back to the respondent to pass a fresh order. Pursuant to the aforesaid orders of this Court in the above mentioned writ petitions, the respondent had also passed a fresh order on 19.07.2021 wherein, the demand has been subsequently dropped.

7. According to the petitioner, substantial part of the demand was dropped as detailed below vide orders dated 19.07.2021:-

Period	% Demand in impugned order pertaining to the Demand dropped by this Court
2017-2018	94%
2018-2019	13%
2019-2020	100%
2019-2020 (Pvt. Ltd.)	25%

8. During the interregnum, after the orders dated 29.10.2020 were passed, the petitioner was issued with a notice under Section 73(5) of the CGST Act in GST DRC-01A on 04.11.2020 wherein, the petitioner was called upon to pay the interest and penalty pursuant to the order dated 29.10.2020 and on account of certain other discrepancies like difference between the informations contained in GSTR-3B and Form GSTR-2A and on account of general penalty on non-reporting of non-AC passengers service turnover itself etc.

9. However, the petitioner failed to reply or appear. It is submitted that the failure to appear was primarily on account of outbreak of Covid-19 pandemic period and that the counsel who was engaged by the petitioner had also sought for adjournment. Despite the same, the respondent has passed the impugned order dated 22.01.2021.

10. That apart, the learned counsel for the petitioner would submit that as against the order dated 19.07.2021 for the Assessment Years 2017-2018, 2018-2019 and 2019-2020 wherein part of the demand has been confirmed, the petitioner is in appeal before the appellate authority under Section 107 of the

CGST Act. It is submitted that the petitioner may be given one opportunity so that the petitioner will explain the case.

11. On the other hand, the learned Additional Government Pleader for the respondent would submit that the petitioner has been negligent in not taking benefit of the personal hearing notice and opportunity will be granted to the petitioner. It is therefore submitted that the writ petitions are liable to be dismissed. It is submitted that at best the petitioner may be given an opportunity to file a statutory appeal under Section 107 of the CGST Act.

12. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

13. The facts as narrated by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent reveal that the order dated 22.01.2021 impugned in these writ petitions are follow up to the proceedings that stood confirmed earlier vide order dated 29.10.2020 for the respective Assessment Years which were subject matter of challenge before this

Court in W.P.Nos.8443, 9175, 9178 and 9180 of 2021, which stood set aside by order dated 01.04.2021 and 15.04.2021 of this Court in the above mentioned writ petitions. Pursuant to the above, a fresh order has also been passed on 19.07.2021 wherein, the substantial part of the demand has been dropped and the petitioner is in appeal before the appellate authority.

14. Although the petitioner has been negligent, the petitioner predicament can be accepted as the proceedings were during the period when the country was under both continuous and intermittent lock down due to outbreak of Covid-19 pandemic.

15. The impugned order has also been passed on 22.01.2021 when the Country was still under lockdown when there was a large scale disruption of the public, social and economic activity.

16. Under these circumstances, considering the overall facts and circumstances of the case, I am inclined to set aside the impugned order and remit the case back to the respondent to pass appropriate orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

17. The impugned order which stands quashed shall be treated as addendum to the Show Cause Notice in GST DRC-01A issued to the petitioners, which preceded the impugned order.

18. It is expected that the petitioner will file a consolidated reply for each of the Assessment Year, within a period of thirty days from the date of receipt of a copy of this order. The respondent shall thereafter pass appropriate orders within a period of two weeks thereafter.

19. These Writ Petitions stand disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

09.08.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

The State Tax Officer,
Inspection Cell Group II,
Office of the DC (ST) Inspection II,
No.1, Greams Road, PAPJM Building,
Chennai – 600 006.

C.SARAVANAN, J.

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W.P.Nos.17563, 17565, 17567 and 17568 of 2021

09.08.2024