IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.10610, 10614 & 10617 of 2024 and
W.M.P.Nos.11682, 11684, 11688, 11690 & 11691 of 2024

In all WPs.

Tvl. E.Clouds,
GSTIN/ID:33AAYPS8527J1ZT,
Represented by its Proprietor,
Shantha Kumar, 81,
West Venkatasamy Road,
2nd floor, R.S.Puram,
Coimbatore South,
Coimbatore-641 002. ...Petitioner

Vs.

1. The Assistant Commissioner (ST),
RS Puram Assessment Circle,
Dr.Balasundaram Road,
Coimbatore-641 018.

2.The State Tax Officer,
RS Puram Assessment Circle,
Dr.Balasundaram Road,
Coimbatore-641 018.

3.The Branch Manager,
State Bank of India,
R.S.Puram Branch,
Coimbatore-641 002. .. Respondents

<u>Prayer in W.P.No.10610 of 2024:</u> Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order in Form GST DRC-07 bearing reference number ZD331123039973H/2017-2018 dated 07.11.2023 issued by the 2nd respondent and quash the same.

<u>Prayer in W.P.No.10614 of 2024:</u> Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the recovery notice in Form DRC-13 bearing reference No.33AAYPS8527J1ZT/2023/DSTO-3, dated 29.02.2024 issued by the 1st respondent and quash the same.

<u>Prayer in W.P.No.10617 of 2024:</u> Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order in Form GST DRC-07 bearing reference number ZD3311230400538/2017-2018 dated 07.11.2023 issued by the 2nd respondent and quash the same.

In all WPs.

For Petitioner : Mr.G.Derrick Sam

For RR1 & 2 : Mr.V.Prashanth Kiran,
Government Advocate (T)

<u>C O M M O N   O R D E R</u>

By these three writ petitions, orders confirming the tax proposal, imposing interest in respect thereof and the consequential recovery notice, respectively, are challenged.

2. The petitioner states that he was providing power aggregation

services. Due to lack of business, he opted for cancellation of registration with effect from 31.03.2023. By asserting that the petitioner was unaware of the initiation of proceedings until the petitioner received the impugned recovery notice, the present writ petitions were filed.

3. Learned counsel for the petitioner submits that the petitioner was unaware of proceedings especially in view of the cancellation of the GST registration. On instructions, he submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for respondents 1 & 2. By referring to the impugned order, he points out that such order was preceded by an intimation, show cause notice and two reminders.

5. On perusal of the order confirming the tax proposal, it is evident that such order pertains to discrepancies between the petitioner's GSTR 3B return and the auto-populated GSTR 2A. Especially in view of the cancellation of the petitioner's GST registration, the petitioner had little reason to monitor the GST portal on an ongoing basis. Therefore, by

putting the petitioner on terms, it is just and necessary to provide the petitioner with an opportunity to contest the tax demand on merits.

6. For reasons set out above, the orders impugned herein are set aside solely with a view to provide the petitioner an opportunity to contest the tax demand on merits. As a corollary, the matter is remanded for reconsideration by respondents 1 & 2 subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to 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 show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, respondents 1 & 2 are directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within a period of three months from the date of receipt of the petitioner's reply.

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

are closed.

23.04.2024

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

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To

1. The Assistant Commissioner (ST),
RS Puram Assessment Circle,
Dr.Balasundaram Road,
Coimbatore-641 018.

2.The State Tax Officer,
RS Puram Assessment Circle,
Dr.Balasundaram Road,
Coimbatore-641 018.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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