IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.10668, 10673 & 10676 of 2024
and W.M.P.Nos.11752, 11755, 11761, 11763, 11767 & 11768 of 2024

Ocean Cargo Movers,
Represented by its Proprietor
Mr.Ashutosh Tiwari,
First Floor, 598/5, T.P.K.Complex,
Old G.N.T.Road,
Sholavaram,
Tiruvallur 600 067. ... Petitioner in all WP's

-vs-

The Assistant Commissioner (ST),
Thirumazhisai Assessment Circle,
No.4/109, Integrated Goods & Service Taxes Building,
2nd Floor, Chennai - Bangalor Highway,
Nazarathpettai,
Chennai 600 123. ... Respondent in all WP's

PRAYER in W.P.No.10668 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in Reference Number : ZD331123066045V/2017-18 DT. 10.11.2023 and quash the same as arbitrary, illegal.

PRAYER in W.P.No.10673 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in Reference Number : ZD331123066094S/2018-19 DT. 10.11.2023 and quash the same as arbitrary, illegal.

PRAYER in W.P.No.10676 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in Reference Number : ZD331123066269H/2020-21 DT. 10.11.2023 and quash the same as arbitrary, illegal.

For Petitioner in all WP's	:	Mrs.V.Vijayalakshmi for Mr.S.Ramanan
For Respondent in all WP's	:	Mr.V.Prashanth Kiran, GA (T)

****

COMMON ORDER

In these three writ petitions, the petitioner assails separate orders dated 10.11.2023 pertaining to three different assessment periods. The petitioner asserts that he is engaged in the business of providing goods transport agency services, which are within the reverse charge mechanism as per sub-section (3) of Section 9 of applicable GST enactments. Since the notices and the impugned order were uploaded on the GST portal, but not communicated through any other mode, the petitioner asserts that he was unaware of such proceedings until recently.

2. Learned counsel for the petitioner referred to the annual return of the petitioner in Form GSTR 9 and pointed out that the petitioner had specified that outward supplies of the aggregate value of Rs.1,62,21,149/- were provided on reverse charge basis. Therefore, she submits that the petitioner has a good case on merits and seeks

an opportunity to contest the tax demand. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that proceedings were initiated against the petitioner upon noticing discrepancies in the returns filed by the petitioner. He further submits that the petitioner was called upon to provide several documents such as the audited balance sheet, trial balance, Form 26AS, Form 3CD, etc., and that the petitioner failed to provide the same.

4. On perusal of the petitioner's annual return, it appears *prima facie* that the petitioner has provided services on reverse charge basis. It is unclear as to whether other services were provided on forward charge basis. All these aspects would have to be examined by the jurisdictional officer. However, the facts and circumstances justify

providing another opportunity to the petitioner by putting the petitioner on terms.

5. For reasons set out above, orders impugned herein are set aside and these matters are remanded for reconsideration, subject to the condition that the petitioner remits 10% of the disputed tax demand in respect of each assessment period as agreed to within a maximum 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 by enclosing all relevant documents within the aforesaid period. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand in respect of each period was 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 ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.Nos.10668, 10673 and 10676 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11752, 11755, 11761, 11763, 11767 and 11768 of 2024 are closed.

23.04.2024

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

To

The Assistant Commissioner (ST),
Thirumazhisai Assessment Circle,
No.4/109, Integrated Goods & Service Taxes Building,
2nd Floor, Chennai - Bangalor Highway,
Nazarathpettai,
Chennai 600 123.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.Nos.10668, 10673 & 10676 of 2024
and W.M.P.Nos.11752, 11755, 11761, 11763, 11767 & 11768 of 2024

23.04.2024