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W.P.Nos.11458, 11464, 11468 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.11458, 11464 & 11468 of 2024
and W.M.P.Nos.12567, 12570, 12574, 12576, 12578 & 12579 of 2024

Tvl. KCP Infra Limited,
Represented by its Director,
Mr.P.Rangaraj,
4, Ground Floor, Alayam Space, Ananda Street,
Alwarpet, Chennai 600 018. ... Petitioner in all WP's

-VS-

1.The State Tax Officer,
Office of the Joint Commissioner,
Group - VI, Inspection, Intelligence - I,
No.1, PAPJM Buildings, Greams Road,
Thousand Lights, Chennai - 600 006.

2.The State Tax Officer,
Group-1, Chengalpattu Intelligence Division,
No.870/2A, N.S.Garden, Kanchipuram High Road,
Thimmavaram,
Chengalpattu - 603 101. ... Respondents in all WP's

PRAYER in W.P.No.11458 of 2024: Writ Petition filed under
Article 226 of the Constitution of India pleased to issue a Writ of



W.P.Nos.11458, 11464, 11468 of 2024

WEB COPY

Certiorari, to call for the records pertaining to the impugned order in Form DRC-07 bearing reference number ZD330224189383E / 2018-19 dated 29.02.2024, issued by the 2nd Respondent and quash the same.

PRAYER in W.P.No.11464 of 2024: Writ Petition filed under Article 226 of the Constitution of India pleaded to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Form DRC-07 bearing reference number ZD330224189312N / 2019-20 dated 29.02.2024, issued by the 2nd Respondent and quash the same.

PRAYER in W.P.No.11468 of 2024: Writ Petition filed under Article 226 of the Constitution of India pleaded to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Form DRC-07 bearing reference number ZD330224189235H / 2020-21 dated 29.02.2024, issued by the 2nd Respondent and quash the same.



W.P.Nos.11458, 11464, 11468 of 2024

WEB COPY For Petitioner : Mr.S.Durairaj
in all WP's

For Respondent : Mr.C.Harsha Raj, AGP (T)
in all WP's

COMMON ORDER

In these writ petitions, three separate orders dated 29.02.2024 are assailed primarily on the ground of breach of principles of natural justice.

2. Pursuant to an inspection conducted in late January and early February 2023 under Section 67 of the Tamil Nadu Goods and Services Tax Act 2017, a sworn statement of Mr.V.Muthukumaran, Accounts Executive of the petitioner, was recorded on 30.01.2023. In course of inspection, 15 discrepancies were pointed out and the petitioner submitted a reply in relation to each discrepancy. Thereafter, the 1st respondent issued an



W.P.Nos.11458, 11464, 11468 of 2024

WEB COPY

intimation on 20.09.2023. The petitioner replied on 27.09.2023 and requested for an extension of time. Without providing such extension, the show cause notice was issued on 10.11.2023 and the impugned assessment order thereafter on 29.02.2024.

3. By inviting my attention to the reply dated 15.02.2023, learned counsel pointed out that each discrepancy was addressed therein. With specific reference to discrepancy '11', which pertains to Input Tax Credit (ITC) reversal for non payment for 180 days, learned counsel pointed out that the ageing report in respect of sundry creditors was provided by the petitioner. He further submits that the petitioner is entitled to claim ITC in respect of delayed payments subject to payment of interest. By thereafter referring to the intimation, show cause notice and the impugned assessment order, learned counsel points out that the reply of the petitioner at the inspection stage was completely disregarded. Apart from the ITC reversal due to non payment for 180 days, he



W.P.Nos.11458, 11464, 11468 of 2024

also pointed out that the turnover pertaining to Andhra Pradesh was also taken into consideration from the financial statement although the petitioner had requested that such turnover be excluded in the reply dated 15.02.2023. He also pointed out that the petitioner had provided a trial balance with regard to the turnover from Tamil Nadu.

4. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit a sum of Rs.20,00,000/- as regards the assessment order in respect of assessment year 2020-21 and a sum of Rs.25,00,000/- each in respect of orders relating to assessment years 2018-19 and 2019-20, which amounts were arrived at by reckoning the disputed tax demand after excluding the claims relating to ITC reversal and turnover difference between GSTR-9 and the profit and loss account.

5. Mr.C.Harsha Raj, learned Additional Government Pleader,



W.P.Nos.11458, 11464, 11468 of 2024

accepts notice for the respondents. He submits that the petitioner was provided several opportunities to contest the tax demand, and that a personal hearing was offered on at least three occasions. He further submits that the submission of documents by the petitioner in course of inspection does not absolve the petitioner of the responsibility of replying to the show cause notice and participating in assessment proceedings.

6. In course of inspection, the petitioner submitted a reply in February 2023. On perusal thereof, it is clear that the petitioner responded to each of the '15' discrepancies noticed during inspection. In particular, the petitioner responded by providing an ageing report in respect of sundry creditors. The petitioner also stated that revenues from Andhra Pradesh had been included on the basis of the audited financial statement and that such inclusion is untenable. A trial balance was also submitted. The petitioner also responded to the intimation and show cause notice and



W.P.Nos.11458, 11464, 11468 of 2024

requested for a personal hearing. In the above facts and circumstances, the impugned assessment orders call for interference albeit by putting the petitioner on terms.

7. For reasons set out above, the impugned assessment order is quashed subject to the condition that the petitioner remits a sum of Rs.20,00,000/- in W.P.No.11468 of 2024 and Rs.25,00,000/- each in W.P.Nos.11458 and 11464 of 2024 as agreed to towards the disputed tax demand 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 within the aforesaid period. Subject to the receipt thereof and upon being satisfied that the above mentioned sums of Rs.20,00,000/- and Rs.25,00,000/- each were received, the assessing officer 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



W.P.Nos.11458, 11464, 11468 of 2024

WEB COPY

petitioner's reply. While undertaking the above exercise, the assessing officer shall take note of the procedure prescribed in Circular No.12/2022 dated 26.09.2022 issued by the Commissioner of Commercial Taxes, Chennai.

8. W.P.Nos.11458, 11464 and 11468 of 2024 are disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

03.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Case Citation : Yes / No

rna

To

1.The State Tax Officer,
Office of the Joint Commissioner,
Group – VI, Inspection, Intelligence – I,
No.1, PAPJM Buildings, Greaves Road,
Thousand Lights, Chennai – 600 006.



W.P.Nos.11458, 11464, 11468 of 2024

2.The State Tax Officer,
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No.870/2A, N.S.Garden, Kanchipuram High Road,
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