



W.P.Nos.11797, 11804, 11837 &, 11846 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 04.06.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.11797, 11804, 11837 &, 11846 of 2024

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WMP Nos..12882, 12884, 12887, 12889, 12896, 12898, 12938, 12940,
12944 & 12945 of 2024

In all Writ Petitions

Tvl. Nagoorar Enterprises,
(Represented by its Proprietor
Shahul Hmeed Naina Mohamed),
New No.11, Old No.7, Subramanian Nagar,
3rd Cross Street, Valasaravakkam,
Chennai-600 087.

... Petitioner

VS

In all Writ Petitions

1. State Tax Officer,
(also known as Commercial Tax Officer)
Ramapuram Assessment Circle,
No.10, Greams Road, 1st Floor,
Palaniyappa Maligai,
Chennai-600 006.

2. Assistant Commissioner (State Tax)
Ramapuram Assessment Circle,
Palaniyappa Complex, 1st Floor,



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No.10, Greams Road,
Chennai-600 006.

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3. Deputy Commissioner (State Tax-GST),
South II, Room No.724, 7th Floor,
Government Farm Village,
Nandanam, Chennai-600 035.

4. The Branch Manager,
Indian Bank, No.118-1219, Indira Nagar, Arcot Road,
Chennai-600 087,.

5. Tvt.TCP Limited,
4/10, Karpakambal Nagar,
Mylapore, Chennai-600 004.

... Respondents

PRAYER in W.P.No.11797 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the files of the 1st Respondent herein in Ref. No.ZD331122085555J dated 29.11.2022 along with his consequential order in GSTIBN:33ABCPS7341B2ZZ dated 29.11.2022 for the tax period 2017-18 and quash the same.

PRAYER in W.P.No.11804 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the files of the 1st Respondent herein in Ref. No.ZD330323131690V dated 27.03.2023 along with his consequential order in GSTIBN:33ABCPS7341B2ZZ dated 27.03.2023 for the tax period 2018-19 and quash the same.

PRAYER in W.P.No.11837 of 2024: Writ Petition filed under Article



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226 of the Constitution of India to issue a writ of Certiorari to call for the records on the files of the 1st Respondent herein in Ref. No.ZD3301231155133 dated 31.01.2023 along with his consequential order in GSTIBN:33ABCPS7341B2ZZ dated 31.01.2023 for the tax period 2019-20 and quash the same.

PRAYER in W.P.No.11846 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the files of the 1st Respondent herein in Ref. No.ZD33012311553450 dated 31.01.2023 along with his consequential order in GSTIBN:33ABCPS7341B2ZZ dated 31.01.2023 for the tax period 2020-21 and quash the same.

In all WPs:

For Petitioner : Mr.K.A.Parthasarathy
Mr.N.Chandirasekar

For Respondents: Mr.V.Prashanth Kiran
Government Advocate

COMMON ORDER

By these writ petitions, orders imposing interest liability on the petitioner are challenged.



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2. The petitioner asserts that he was unable to file returns and pay taxes on time during the relevant assessment periods on account of multiple reasons, including bereavements in the family, non-payment by suppliers and the onset of the COVID-19 pandemic. Eventually, returns were filed and requisite taxes were paid. Orders imposing interest liability are challenged in these circumstances.

3. Learned counsel for the petitioner submits that a personal hearing was not provided before the impugned orders were issued. He also submits that the petitioner had requested the respondents to permit the petitioner to make payments in installments by taking into account the financial situation of the petitioner. He also submits that such request could have been placed before the appropriate authority under Section 80 of the applicable GST enactments. The last submission is that a circular was issued for the imposition of interest at lower rates during specific months during the COVID-19 pandemic. After pointing out that the petitioner has paid about Rs.2 lakhs towards the aggregate demand of about Rs.12 lakhs, learned



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counsel seeks another opportunity to place these contentions before the respondents. On instructions, he submits that the petitioner agrees to remit an additional sum of Rs.2 lakhs as a condition for remand and as a condition for raising the garnishee orders.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for Respondents 1 to 3. He submits that the imposition of interest, including the rate of interest, is prescribed by statute and is a corollary of belated payment of tax. Consequently, he contends that the assessing officer has no discretion in the matter and that no purpose would be served by remanding the matter.

5. On examining the orders impugned herein, it is clear that such orders pertain only to interest. In the affidavit in support of these writ petitions, the petitioner has set out details of payment of requisite taxes in respect of the relevant assessment periods. The petitioner has also placed on record proof of payment of about Rs. 2 lakhs towards interest. In sub-section 4 of Section 75 of the applicable GST enactments, a personal hearing is mandatory if



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requested for or if an order adverse to the tax payer is proposed to be issued. Under Circular No.13/2020-TNGST dated 17.08.2020, tax payers had the benefit of reduced rate of interest during specific months of the COVID-19 pandemic period. By taking into account all the aforesaid factors, albeit by imposing conditions, interference with orders impugned herein is warranted.

6. Therefore, orders impugned herein are set aside on condition that the petitioner remits an additional sum of Rs.2 lakhs, in the aggregate, towards the demand under the orders impugned herein. Such remittance shall be made within three weeks from the date of receipt of a copy of this order. Subject to receipt of the aggregate sum of Rs.4 lakhs, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within three months from the date of receipt of the above sum from the petitioner. Subject to receipt of the aggregate sum of Rs.4 lakhs, including amounts previously remitted, the garnishee orders are also set aside.



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7. W.P.Nos.11797, 11804, 11837 &, 11846 of 2024 are disposed

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

04.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

1. State Tax Officer,
(also known as Commercial Tax Officer)
Ramapuram Assessment Circle,
No.10, Greams Road, 1st Floor,
Palaniyappa Maligai,



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