IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 07.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.12878 & 12885 of 2024
and W.M.P.Nos.14039, 14043, 14047 & 14050 of 2024

In both WPs.:

M/s.Thiashola Plantation P. Ltd.
Rep. by its Assistant General Manager,
Mr.Soosai Arulappan,
2/239, Needari, Thiashola Pot,
Thiasola, The Nilgiris, Tamil Nadu – 643 219. ... Petitioner

-vs-

The State Tax Officer,
Udhagai South Assessment Circle,
The Nilgiris. ... Respondent

PRAYER in W.P.No.12885 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the records relating to impugned order in GSTIN No.33AACT4362P1Z0/2019-20 dated 16.10.2023 passed by the respondent for the assessment year 2019-2020 and quash the same as null and void.

PRAYER in W.P.No.12878 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the records relating to impugned order in GSTIN No.33AACT4362P1Z0/2018-19 dated 14.10.2023 passed by the respondent for the assessment year 2018-2019 and quash the same as null and void.

In both WPs.:

For Petitioner : Mr.Mr.Manoharan Sundaram
for Mr.K.Lavan & J.Balamurugan

For Respondent : Mr.V.Prashanth Kiran, GA (T)

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COMMON ORDER

Orders in original in respect of assessment periods 2018-19 and 2019-20, respectively, are assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the show cause notice and the impugned order were not communicated to the petitioner by registered post or

e-mail and merely uploaded on the GST portal, the present writ petitions were filed.

3. Learned counsel for the petitioner submits that the tax proposals pertain to mismatch between the petitioner's GSTR 3B returns and the auto-populated 2A. Since the show cause notice and even the impugned orders were only uploaded on the portal and not communicated to the petitioner by registered post or e-mail, he submits that the petitioner was unable to participate in proceedings. He also points out that the order dated 16.10.2023 refers to a personal hearing on 18.10.2023.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. On instructions, he submits that the first personal hearing was on 11.10.2023.

5. On perusal of the impugned orders, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. In view of the petitioner's assertion that it could not participate on account of being unaware of proceedings, the interest of justice warrants that the petitioner be provided an opportunity by putting the petitioner on terms.

6. For reasons set out above, the impugned orders in these writ petitions are set aside on condition that the petitioner remits 10% of the disputed tax demand in respect of each assessment period within three weeks from the date of receipt of a copy of this order. Within the said period, the petitioner is also permitted to submit a reply to the show cause notice. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the 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 petitioner's reply.

7. W.P.Nos.12878 & 12885 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.14039, 14043, 14047 & 14050 of 2024 are closed.

07.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

The State Tax Officer,
Udhagai South Assessment Circle,
The Nilgiris.

SENTHILKUMAR RAMAMOORTHY,J

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W.P.Nos.12878 & 12885 of 2024
and W.M.P.Nos.14039, 14043, 14047 & 14050 of 2024

07.06.2024