IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **12.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.19118 of 2020
and W.M.P.No.23691 of 2020

Tamil Nadu Kerosene Dealers Association,
(Regd.No.830/2000),
Represented by its President S.Kuppuswamy,
No.406, Ottakoothar Street,
Mamallan Nagar, Kancheepuram-631 502. ... Petitioner

-vs-

1.The Principal Secretary to Government,
State of Tamil Nadu,
Commercial Taxes and Registration Department,
Fort St. George,
Chennai-600 009.

2.The Additional Chief Secretary/Commissioner,
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The Additional Chief Secretary,
State of Tamil Nadu,
Co-operation, Food and Consumer
Protection Department,
Fort St. George, Chennai-600 009.

4.The Commissioner,
Civil Supplies and Consumer Protection Department,
Chepauk, Chennai-600 005. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to consider the report of the 2nd respondent in Proceedings Rc.No.441/2018/A3/Taxation Cell dated 19.12.2018 addressed to him to take up the request of the petitioner-Association to GST Council, to grant exemption from the provisions of Section 51 of the SGST/CGST Acts in respect of wholesale kerosene suppliers who made purchase of PDS kerosene from oil companies and supplies the same to fair price shops run by the State Government and its undertakings together with the further representations sent by the petitioner-Association dated 11.10.2019 and 03.10.2020.

For Petitioner : Mr.K.Jeyachandran

For Respondents : Mr.C.Harsha Raj, Additional Govt. Pleader (Tax)

ORDER

The petitioner is an association of wholesale dealers of kerosene. It is stated that members of the petitioner-association purchase kerosene from public sector oil marketing companies and supply the same to PDS shops/Co-operative stores. By asserting that the said service is provided for a small margin, the petitioner-association submitted representations to the Commercial Taxes Department seeking GST exemption and exemption from TDS.

2. Learned counsel for the petitioner referred to the communication dated 15.11.2018 from the Commissioner, Civil Supplies and Consumer Protection Department to the Commissioner, Commercial Taxes and Registration Department, requesting for exemption from the levy of TDS at 2%. He also referred to the communication dated 19.12.2018 from the Additional Chief Secretary/Commissioner of Commercial Taxes to the Principal Secretary to the Government, Commercial Taxes and Registration Department, requesting that exemption from the provisions of Section 51 of the SGST/CGST Acts be taken up with the GST Council for wholesale kerosene suppliers, who purchase PDS kerosene from oil companies and supply the same to fair price shops run by the State Government. In view of this recommendation, learned counsel submits that the 1st respondent should be directed to consider and dispose of the petitioner's representation dated

28.01.2019.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, submits that the decision with regard to exemption from GST falls within the exclusive GST domain of the Council. Consequently, he submits that, at most, the 1st respondent may consider the petitioner's representation and take a decision on whether the same should be raised with the GST Council.

4. The communication dated 15.11.2018 from the Commissioner, Civil Supplies and Consumer Protection Department to the Commissioner, Commercial Taxes and Registration Department is in the form of a request to exempt wholesale kerosene dealers from the levy of TDS at 2%. The subsequent communication of 19.12.2018 from the Additional Chief Secretary/Commissioner of Commercial Taxes to the Principal Secretary to the Government, Commercial Taxes and Registration Department is with regard to raising the issue of exemption from the provisions of Section 51 of the SGST/CGST Acts in respect of wholesale kerosene suppliers, who supply PDS kerosene to fair price shops. In view of these two

communications, the petitioner has made out a case for the consideration of the representation dated 28.01.2019.

5. In the facts and circumstances, W.P.No.19118 of 2020 is disposed of by directing the 1st respondent to consider the representation dated 28.01.2019 and dispose of the same after providing a reasonable opportunity to the petitioner. This exercise shall be completed within a maximum period of two months from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.02.2024
(1/2)

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

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SENTHILKUMAR RAMAMOORTHY,J.

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To

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