IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.11.2024

Coram:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No's.25217, 25225 & 25232 of 2024
and
WMP.No's.27540, 27541, 27552, 27554, 27558 & 27559 of 2024

Raja Arts Hitech Engineering,
Represented by its Proprietor – E.R.Rajendran,
GST:33ACHPR0720K1ZL/2019-20, 2020-21, 2021-22,
No.40/18C, S P Pudur,
Paramathi Road, Namakkal – 637001

...Petitioner in all W.P.No's

vs.

1. Commercial Tax Officer,
Salem Integrated Commercial Taxes Building,
2nd Floor, Pitchards Road, Hasthampatty,
Salem-636 007.

2. State Tax Officer,
Legal and Revision - II, Intelligence,
Salem Integrated Commercial Taxes Building,
Room No. 207, 2nd Floor, Pitchards Road,
Hasthampatty, Salem-636 007.

3. State Tax Officer,
Data Analytics Unit - 2, Intelligence,

Salem Integrated Commercial Taxes Building,
2nd Floor, Pitchards Road,
Hasthampatty, Salem-636 007

4. Joint Commissioner (Intelligence)
2nd Floor, Pitchards Road,
Hasthampatty, Salem – 636 007.

...Respondents in all W.P.No's.

Prayer in W.P.No.25217 of 2024: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, call for the records relating to the impugned order dated 11.03.2024 bearing GST:33ACHPR0720K1ZL/ 2019-20 in Form GST DRC-07 issued by the 3rd Respondent and quash the same as being arbitrary, pre meditated and mechanical

Prayer in W.P.No.25225 of 2024: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, call for the records relating to the impugned order dated 11.03.2024 bearing GST:33ACHPR0720K1ZL/ 2020-21 in Form GST DRC-07 issued by the 3rd Respondent (pursuant to preshow cause notices dated 31.03.2023), in so far as it relates to the levy of tax, interest and penalty for the alleged defect "Turnover difference between GSTR 3B and TDS credit received" and quash the same.

Prayer in W.P.No.25232 of 2024: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, call for the records relating to the impugned order dated 11.03.2024 bearing TN-GST:33ACHPR0720K1ZL/ 2021-22 in Form GST DRC-07 issued by the 3rd Respondent (pursuant to preshow cause notices dated 31.03.2023), in so far as it relates to the levy of tax, interest and penalty for the alleged defect "Turnover difference between GSTR 3B and TDS credit received" and quash the same.

For Petitioner in all W.P.No's : M/s.Tanushree Arvind
For Respondents in all W.P.No's : Mr.TNC Kaushik Additional Government Pleader

COMMON ORDER

All the three writ petitions are disposed of by this common order in asmuchas it is submitted by the learned counsel for the petitioner as well as respondents that the issues that arises are common in all three writ petitions.

2. W.P.No.25217 of 2024 relates to assessment year 2019-20, W.P.No.25225 of 2024 relates to assessment year 2020-21 and W.P.No.25232 of 2024 relates to assessment year 2021-22.

3. The petitioner is engaged in the business of construction works since 2000. Petitioner is registered under GST and has filed returns and paid appropriate taxes and during the relevant period namely *viz.,* 2019-20 to 2021-22 the petitioner received work orders from BDO of Panchayat offices in Namakkal and Salem Districts for construction and erection of cow and goat sheds in the said Districts.

4. It is submitted by the learned counsel for the petitioner that in respect of

the above work contract executed by the petitioners, entire taxes has been remitted. While filing reply, statement of the various invoices along with details of the taxes paid under the TNGST and CGST Act respectively was also submitted. It is also submitted by the learned counsel for the petitioner that as a matter of fact, the BDO deducted TDS under Section 51 of the TNGST Act. Whileso the impugned order levies tax under the GST Act on the very same supplies (works contract executed by the petitioner for BDO).

5. The impugned order is challenged on the premise that it is passed, over looking the reply and the supporting documents filed by the petitioner, which would clearly establish that the entire taxes has been remitted on the supplies namely work contract executed by the petitioner for the BDO, Panchayat office, Namakkal and Salem District during the relevant period 2019-20, 2020-21, 2021-22. It was then submitted that the impugned order of assessment results in levy of taxes on the very same supplies, which has already suffered tax which is clearly without authority of law thereby falling foul of Article 265 of the Constitution of India.

6. Learned counsel for the respondents would submit that the petitioner may

submit the document to show that taxes has already been discharged in respect of contracts executed by the petitioners for BDO, Panchayat office of Namakkal and Salem District and if such documentary evidence is furnished, the same would be considered and orders would be passed in accordance with law after giving reasonable opportunity of hearing to the petitioner. Request was also made by the learned counsel for the respondents that the petitioner may be directed to furnish copies of work orders which was readily agreed by the learned counsel for the petitioner.

7. In view thereof, the impugned order is set-aside the petitioners are permitted to file additional representation, if any, along with work orders and proof of having paid the taxes in respect of subject work contract within a period of four (4) weeks from the date of receipt of copy of this order. On such filing of the said document/ reply, the respondents authority will proceed to re-do the assessment in accordance with law after affording reasonable opportunity to the petitioner. If the petitioner fails to file objection or furnish any documents, within the stipulated period i.e., within a period of four (4) weeks from the date of receipt of copy of this order, the impugned order shall stand restored.

In view of the above, these writ petitions are disposed of. No costs. Consequently, connected WMP's are closed.

11.11.2024

dsn

Index:Yes/No
Speaking order:Yes/No
Neutral Citation:Yes/No

To

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MOHAMMED SHAFFIQ,J.

dsn

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