



W.P.No.29855 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.29855 of 2024

and

W.M.P.Nos.32551 & 32553 of 2024

K.Selvakumar

...Petitioner

Vs.

The Joint Commissioner-Tax,
GST Bhawan, No.1,
Foulkes Compound,
Anaimedu,
Salem-636 001.

... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the respondent in his proceedings in SCN Reference No:14/2024 GST (JC) and quash the proceeding dated 31.07.2024.

For Petitioner : Ms.Rita Chandrasekar
for Aiyar and Dolia

For Respondent : Mr.R.P.Pragadish,
Senior Standing Counsel



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ORDER

This Writ Petition has been filed by the petitioner to quash the impugned order dated 31.07.2024 passed by the respondent.

2. Mr.R.P.Pragadish, learned Senior Standing Counsel takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that in a similar set of facts, this Court has already passed the following order in W.P.No.16624 of 2024 dated 09.07.2024.

"5. The Division Bench of this Court issued the following directions at paragraph 9 of the judgment:

"9. In these circumstances, we deem it fit and appropriate to issue the following directions:

(i) In the cases, where the challenge is made to the show cause notices, the writ petitioners shall submit their objections / representations within a period of four weeks from the date of receipt of a copy of this order.



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(ii) Upon receipt of the objections / representations from the writ petitioners, the authority concerned shall proceed with the adjudication, on merits and in accordance with law, after affording reasonable opportunity of being heard to the petitioners. However, the orders of adjudication shall be kept in abeyance until the Nine Judge Constitution Bench decides the issue as to the nature of royalty.

(iii) It is made clear that there shall be no recovery of GST on royalty until the Nine Judge Constitution Bench takes a decision.

(iv) Needless to state that on the matters being decided, the writ petitioners if still aggrieved, shall redress their grievance(s), if any, before the appropriate forum, including by filing appeal(s).

(v) Insofar as the challenge to the notification as well as the circular, it is open to the writ petitioners to act upon, after the outcome of the case pending before the Nine Judge Constitution Bench.

(vi) It is also made clear that all the contentions are left open for the writ petitioners to raise in appropriate proceedings, after the outcome of the decision of the Nine Judge Constitution Bench."

6. In view of the said judgment, this petition is liable to be disposed of on the same terms. Consequently, in this case, the petitioner is permitted to submit his reply to the intimation within a maximum period of four weeks from the date of receipt of a copy of this order."



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Therefore, the learned counsel for the petitioner requested this Court that the same order may be passed in this petition.

5. The Division Bench of this Court issued the following directions at paragraph 9 of the judgment:-

"9. In these circumstances, we deem it fit and appropriate to issue the following directions:

(i) In the cases, where the challenge is made to the show cause notices, the writ petitioners shall submit their objections / representations within a period of four weeks from the date of receipt of a copy of this order.

(ii) Upon receipt of the objections / representations from the writ petitioners, the authority concerned shall proceed with the adjudication, on merits and in accordance with law, after affording reasonable opportunity of being heard to the petitioners. However, the orders of adjudication shall be kept in abeyance until the Nine Judge Constitution Bench decides the issue as to the nature of royalty.

(iii) It is made clear that there shall be no recovery of GST on royalty until the Nine Judge Constitution Bench takes a decision.



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(iv) Needless to state that on the matters being decided, the writ petitioners if still aggrieved, shall redress their grievance(s), if any, before the appropriate forum, including by filing appeal(s).

(v) Insofar as the challenge to the notification as well as the circular, it is open to the writ petitioners to act upon, after the outcome of the case pending before the Nine Judge Constitution Bench.

(vi) It is also made clear that all the contentions are left open for the writ petitioners to raise in appropriate proceedings, after the outcome of the decision of the Nine Judge Constitution Bench."

6. In view of the said judgment, this petition is liable to be disposed of on the same terms. Consequently, in this case, the petitioner is permitted to submit his reply to the intimation within a maximum period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

04.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,
jd

To

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