IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. Nos.33751, 33757, 33760, 33763 and 33767 of 2024
and
W.M.P.Nos.36578, 36542, 36548, 36557, 36556, 36563, 36566, 36569, 36572 and 36574 of 2024

M/s.Total Environment Building Systems Pvt. Ltd.,
represented by its Chief Financial Officer,
Mr.HariRamakrishnan,
74/2-74/8, Kagganur Village,
Hosur 635 103. ... Petitioner in all petitions

Vs.

1.The Assistant Commissioner of GST & Central Excise,
Office of the Assistant Commissioner of GST & Central Excise,
Salem Audit Circle, No.1, Foulkes Compound,
Anaimedu, Salem 636 001.

2.The Deputy State Tax Officer (Intelligence),
Adjudication & Legal Wing, 3/47,
Sapthagiri Complex, Thorapalli, Agraharam Village,
Adj. to Ashok Leyland Unit-I, Gandhi Nagar,
Hosur (TK), Krishnagiri District,
Tamil Nadu 635 109.

3.The Joint Commissioner (State Taxes),
Intelligence Divison, 3/47,
Sapthagiri Complex, Thorapalli, Agraharam Village,
Adj. to Ashok Leyland Unit-I, Gandhi Nagar,
Hosur (TK), Krishnagiri District,
Tamil Nadu 635 109. ... Respondents in all petitions

Prayer in W.P.No.33757 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in the original impugned order GSTIN No.33AABCT9452F1ZD/2018-19 dated 29.07.2024 along with the Form DRC-07 bearing reference No.ZD330724339410N dated 30.07.2024 issued by the second respondent and quash the same as void ab initio, without jurisdiction, arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and a direction to the respondents to consider the submissions put for the by the petitioner.

Prayer in W.P.No.33751 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in the original impugned order GSTIN No.33AABCT9452F1ZD/2019-20 dated 29.07.2024 along with the Form DRC-07 bearing reference No.ZD330724339423G dated 30.07.2024 issued by the second respondent and quash the same as void ab initio, without jurisdiction, arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and a direction to the respondents to consider the submissions put for the by the petitioner.

Prayer in W.P.No.33760 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in the original impugned order GSTIN No.33AABCT9452F1ZD/2020-21 dated 29.07.2024 along with the Form DRC-07 bearing reference No.ZD330724339460I dated 30.07.2024 issued by the second respondent and quash the same as void ab initio, without jurisdiction, arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and a direction to the respondents to consider the submissions put for the by the petitioner.

Prayer in W.P.No.33763 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in the original impugned order GSTIN No.33AABCT9452F1ZD/2021-22 dated 29.07.2024 along with the Form DRC-07 bearing reference No.ZD330724339469Q dated 30.07.2024 issued by the second respondent and quash the same as void ab initio, without jurisdiction, arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and a direction to the respondents to consider the submissions put for the by the petitioner.

Prayer in W.P.No.33767 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in the original impugned order GSTIN No.33AABCT9452F1ZD/2022-23 dated 29.07.2024 along with the Form DRC-07 bearing reference No.ZD330724339469Q dated 30.07.2024 issued by the second respondent and quash the same as void ab initio, without jurisdiction, arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and a direction to the respondents to consider the submissions put for the by the petitioner.

For Petitioner in all petitions	: Mr.S.Muthuvenkatraman
For Respondents in all petitions	: Mr.Rajnish Pathiyil, Senior Panel Counsel for R1.

Mr.T.N.C.Kaushik,
Additional Government Pleader
for R2 and R3.

COMMON ORDER

This batch of five writ petition is filed challenging the orders passed under Section 74 of the GST Act on the premise that the impugned orders have been passed without taking into account the documents filed in support of the replies submitted.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the manufacture and supply of doors and windows (furnitures and parts thereof) and registered under the Goods and Services Tax Act, 2017. During the relevant period viz., 2018-19 to 2022-23, the petitioner filed its return and paid the appropriate tax. While so, the petitioner's place of business was inspected on 26.10.2023 pursuant to the authorization by the Joint Commissioner (State Tax) (Intelligence), Hosur in terms of Section 67(1) of the TNGST Act, 2017. During the scrutiny of the records available in the GST portal, it was *inter alia* found that there were certain discrepancies between GSTR-2A and GSTR-3B.

3. Pursuant thereto, for all the assessment years, a notice in GST DRC-01A was issued on 23.03.2024, followed by a Show Cause Notice in GST DRC-01 on 08.05.2024. Further, personal hearings were offered on 12.06.2024 and 21.06.2024. In response, the petitioner had filed its detailed reply on 28.06.2024 along with supporting documents *inter alia* including documents raised in respect of supplies which forms the subject matter of the Show Cause Notice raised by its units / branches in other States. It was also indicated that taxes have been remitted in respect of supplies proposed in the Show Cause Notice as liable under the TNGST Act, in various other States.

4. It is submitted by the learned counsel for the petitioner that the documents filed were voluminous and as a matter of fact, the petitioner had also provided invoices to demonstrate that the supplier had remitted tax in the appropriate State. It is the submission of the learned counsel for the petitioner that the impugned order pertains to supplies which were effected outside the State and thus without jurisdiction. It is submitted that the difference between GSTR-2A and GSTR-3B was explained with the support of invoices and other relevant documents. However, the impugned order has been passed on the premise that the petitioner has failed to file relevant documentary evidence. It is also submitted that the impugned order does not even deal with the material

furnished by the petitioner, which runs into several hundred pages and the condensed version of the same was placed before this Court for consideration, which itself exceeds four hundred pages. Nevertheless, the impugned order proceeds to confirm the proposal on the premise that no valid supportive documents were filed.

5. The learned counsel for the petitioner would submit that they had, in fact, produced the financial invoices raised in the respective States, which disclose that taxes have, in fact, been remitted in respective States i.e., States other than Tamil Nadu. Thus, the impugned order suffers from non-application of mind to the material on record.

6. The learned counsel for the respondents would submit that they would re-examine the issue and would also submit that the petitioner may once again produce the entire documents which they intend to rely upon.

7. In view thereof, the impugned orders are set-aside. Liberty is granted to the petitioner to treat the impugned orders as Show Cause Notice and submit its reply along with documentary evidence within a period of two (2) weeks from the date of receipt of a copy of this order, failing which, the impugned orders

stands restored.

8. Accordingly, the writ petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.11.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:

1.The Assistant Commissioner of GST & Central Excise,
Office of the Assistant Commissioner of GST & Central Excise,
Salem Audit Circle, No.1, Foulkes Compound,
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MOHAMMED SHAFFIQ, J.

shk

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