IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

THE HONOURABLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.37450 of 2024
and W.M.P.Nos.40464 to 40470, 40476 to 40479 of 2024 &
W.M.P.No.40472 of 2024

TVR Coach Builders,
Rep by its authorized signatory Mr.Prasanna Venkatesh ... Petitioner

Vs.

The State Tax Officer,
Adjudication and Legal Office of the Joint Commissioner (ST),
Intelligence, Commercial Taxes Building,
No.1, Brough Road, Erode 638001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of respondent in its impugned proceedings bearing Assessment Nos.33AAEPR0924N1ZL/2017-18, 33AAEPR0924N1ZL/2018-19, 33AAEPR0924N1ZL/2019-20, 33AAEPR0924N1ZL/2020-21, 33AAEPR0924N1ZL/2021-22 and 33AAEPR0924N1ZL/2023-24 dated 09.03.2024 and 29.02.2024 and quash the same as it is unreasonable, illegal, improper and in gross violation of principles of natural justice and consequently, direct the respondent to redo the assessment afresh after providing an opportunity of personal hearing as per the provisions of the TNGST Act 2017.

For Petitioner : Mr.Nithyaesh Natraj for
Mr.Anirudh A Sriram

For Respondent : M/s.Amrita Dinakaran, GA

ORDER

The present writ petition is filed challenging the impugned proceedings of the respondent bearing Assessment Nos. 33AAEPR0924N1ZL/2017-18, 33AAEPR0924N1ZL/2018-19, 33AAEPR0924N1ZL/2019-20, 33AAEPR0924N1ZL/2020-21, 33AAEPR0924N1ZL/2021-22 and 33AAEPR0924N1ZL/2023-24 dated 09.03.2024 and 29.02.2024 respectively.

2. The petitioner herein is TVR Coach Builders in Karur District, a leading provider of comprehensive contracting and building services, specializes in delivering high-quality solutions that cater to Builders & Developers projects. The business operates as a proprietorship and is registered with GSTIN: 33AAEPR0924N1ZL. The Petitioner undertook several prominent government projects at Bangalore, Madurai and Coimbatore. That being the case, the Company has now ceased to exist.

3. The Respondents conducted a search and seizure operation encompassing proceedings for six assessment years and had passed the impugned orders on 29.02.2024 and 09.03.2024 respectively, alleging excess claims of Input Tax Credit (ITC), short payment of tax, and calculated interest on the purported shortfall. As per the impugned orders dated 29.02.2024 and 09.03.2024 respectively, for the relevant assessment years, the Respondent determined the tax payable as follows:

Assessment Year	Tax Payable in Rupees
2017-18	1,70,828/-
2018-19	35,47,655/-
2019-20	22,50,280/-
2020-21	56,82,037/-
2021-22	50,111/-
2023-24	83,745/-

These amounts were based on defects related to the discrepancies in sale invoices and differences in turnover reported between GSTR 3B and TDS received from the Government Departments. Additionally, penalty at 100% was also imposed under Section 74 of the Tamil Nadu Goods and Services

Tax (TNST) Act, 2017.

4. The learned counsel for the Petitioner submits that no show cause notice (SCN) or Form DRC-01A was served upon them, except by uploading in the GST Portal for which the Petitioner herein has no access to, violating the principles of *audi alteram partem*. Such actions reflect a disregard for procedural fairness, leaving the Petitioner without any opportunity to respond or defend the claims.

5. The learned counsel for the Petitioner submits that the erstwhile Proprietor's chronic health issues rendered him incapable of accessing the portal or addressing the notices and subsequently, he expired on 13.07.2024. Consequently, the Petitioner was deprived of an opportunity to present submissions or file replies against the alleged defects raised by the Respondents.

6. It was further submitted that out of the total amount due, the petitioner had paid a sum of Rs.11,36,408/- towards demand under appeal on 29.05.2024 and now the petitioner is ready and willing to pay another sum of Rs.25,00,000/- towards the disputed tax and that they may be granted one

final opportunity before the adjudicating authority to put forth their objections to the proposal.

7. The learned Government Advocate appearing for the respondent submitted that the impugned assessment orders were passed on 29.02.2024 and 09.03.2024 respectively and the limitation period expires on 09.06.2024 and extension period also expires on 09.07.2024 and the writ petition has been filed belatedly in the month of December 2024. He further submitted that if the petitioner pays 25% of the disputed amount, the matter may be taken up by the respondent for fresh consideration.

8. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent and perused the materials available on record.

9. Considering the submissions made by the learned counsel on both sides, the impugned assessment orders dated 29.02.2024 and 09.03.2024 respectively are hereby set aside and this Court is inclined to pass the following orders:

a) The petitioner shall deposit a sum of Rs.25,00,000/- (Rupees Twenty

Five Lakhs only), apart from the amount i.e., Rs.11,36,408/-, already paid by the petitioner on 29.05.2024, within a period three weeks from the date of receipt of a copy of this order.

b) On complying with the above condition, the impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four weeks from the date of receipt of a copy of this order along with supporting documents/material.

c) If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner.

d) If the above deposit is not paid or objections are not filed within the stipulated period, i.e., three weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned orders of assessment shall stand revived.

10. In the result, the **writ petition stands disposed of with the above observation and direction**. Consequently, connected Miscellaneous Petitions are closed. No costs.

09.12.2024

vkr
Index : Yes / No
Speaking order / Non-speaking order
To

The State Tax Officer,
Adjudication and Legal Office of the Joint Commissioner (ST),
Intelligence, Commercial Taxes Building,
No.1, Brough Road, Erode 638001.

J.SATHYA NARAYANA PRASAD. J,

vkr

W.P.No.37450 of 2024
and W.M.P.Nos.40464 to 40470, 40476 to 40479 of 2024 &
W.M.P.No.40472 of 2024

09.12.2024