



W.P.(MD)Nos.7121 and 7122 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.7121 and 7122 of 2024

and

W.M.P.(MD)Nos.6582, 6585, 6587, 6603, 6604 and 6606 of 2024

W.P.(MD)Nos.7121 of 2024

Manglesh

... Petitioner

versus

1. The Principal Commissioner of
CGST & Central Excise,
Office of the Principal Commissioner
CGST & Central Excise,
Central Revenue Buildings,
No.5, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai – 625 002.
2. The Deputy Commissioner of
CGST & Central Excise,
Madurai II Division,
Central Revenue Buildings,
No.5, V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai – 625 002.



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3. The Superintendent of CGST &
Central Excise,
Ramanathapuram Range/
Madurai – II Division,
Customs Division, 1st Floor,
Bharathi Nagar,
Ramanathapuram – 623 503.

4. The Branch Manager,
Canara Bank Limited,
Ramanathapuram Branch,
No.12, Mohammed Sadak
Shopping Complex,
Government Hospital Road,
Ramanathapuram – 623 501.

5. The Branch Manager,
Central Bank of India,
Ramanathapuram Branch,
No.28, Salai Station (Avaiyar Street),
Ramanathapuram – 623 501.

6. The Branch Manager,
Axis Bank Limited,
Ramanathapuram Branch,
T.S.No.37/1A5A1E, Opp. Sathya Hospital,
Rameswaram Road,
Ramanathapuram – 623 504.

7. The Branch Manager,
State Bank of India,
Ramanathapuram Branch,
Salai Street,
Ramanathapuram – 623 501.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in original passed by the 2nd respondent in DIN:20220159XO00008186EA C.No.IV/09/168/2020ST Adjn dated 03.01.2022 and quash the same and consequently direct the respondents to pass fresh order after considering the reply to the show cause notice dated 15.06.2023 and affording opportunity to the petitioner.

For Petitioner : Mr.R.Aravindan
For R1 to R3 : Mr.N.Dilip Kumar
For R4 : Mr.V.Balasubramanian
For R5 : Mr.C.Karthick

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Venkadeswara Pandian

... Petitioner

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2. The Deputy Commissioner of
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4. The Branch Manager,
Karur Vysya Bank Limited,
Ramanathapuram Branch,
St. Rossary Church Complex,
Salai Street,
Ramanathapuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in original passed by the 2nd respondent in DIN : 20220159XO0000555C98 C.No.IV/09/116/2020ST Adjn dated 06.01.2022 and quash the same and consequently direct the respondents to pass fresh order after considering the reply to the show cause notice dated 10.06.2023 and affording opportunity to the petitioner.



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For Petitioner : Mr.R.Aravindan

For R1 to R3 : Mr.N.Dilip Kumar

For R4 : Mr.V.Sukumar

COMMON ORDER

The petitioners are P.W.D. Contractors. The second respondent have issued the impugned orders dated 03.01.2022 and 06.01.2022 demanding the petitioners to pay the service tax on the service rendered by them to the Government.

2 The petitioners herein and other Contractors, who are similarly placed, have challenged the show cause notices dated 19.12.2020 and 31.12.2020 issued by the Department before this Court in W.P. (MD)Nos.21648 and 21651 of 2021 and W.P.(MD)No.22811 to 22814 of 2021 on the ground that the services rendered to the Government are exempted and therefore, they cannot be charged with a tax.

3. This Court has entertained those writ petitions and directed to transfer those writ petitions to the Principal Seat. The Division Bench



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of the Principal Seat, by a common order dated 30.11.2022, finally decided the issue in W.P.No.24996 of 2019 etc. (batch) that the Contractors are liable to pay the service tax. Pending this issue before the Division Bench, the present impugned orders have been passed.

4. Admittedly, the show cause notices issued in this regard to the petitioners on 19.12.2020 and 31.12.2020 were challenged before this Court in W.P.(MD)Nos.21648 and 21651 of 2021 and W.P.(MD)No. 22811 to 22814 of 2021, which were also directed to be transferred to the Principal Seat.

5. The Division Bench, while disposing of the batch of writ petitions in W.P.No.24996 of 2019 etc. (batch), on 30.11.2022, permitted the Department to proceed with the enquiry from the stage, in which, it has been stalled. The relevant paragraph is extracted as under:

“125. Wherever Show Cause Notices have been issued, the respective petitioners are directed to give



detailed replies to the same and participate in the adjudicatory mechanism provided under the Finance Act, 1994. Such of those petitioners shall file their replies within a period of sixty (60) days from the date of receipt of a copy of this order. The respondents shall thereafter pass appropriate orders on merits within a period of ninety (90) days, after giving the respective petitioners adequate opportunity of being heard.”

6. But, in the present writ petitions, the petitioners were not provided with an opportunity of hearing as directed by this Court (cited supra). On this ground alone, the impugned orders are liable to be set aside.

7. Accordingly, these writ petitions are allowed and the impugned orders dated 03.01.2022 and 06.01.2022 issued by the second respondent are hereby set aside. The matters are remanded back to the second respondent for fresh consideration. The second respondent shall decide the issue afresh and pass orders, after providing



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an opportunity of hearing to the petitioners, as directed by the Division Bench of this Court in W.P.No.24996 of 2019 etc. (batch), on 30.11.2022. No costs. Consequently, connected miscellaneous petitions are closed.

22.03.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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B.PUGALENDHI, J.

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