



W.P.(MD) No.8738 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.8738 of 2024
and
W.M.P.(MD) Nos.7989 and 7990 of 2024**

Tvl.Kuttuva Silicates (P) Limited,
represented by its Managing Director,
K.K.Gnanaprabhakaran,
5A, (New.No.17), New Teppakulam Colony,
Madurai 625 009.

... Petitioner

/vs./

- 1.The Union of India,
Represented by the Secretary,
Department of Revenue, Ministry of Finance,
No.137, North Block,
New Delhi 110 001.
- 2.The Goods & Services Tax Council,
represented by its Chairman,
GST Council Secretariat, 5th Floor,
Tower – II,
Jeevan Bharati Building, Janpath Road,
Connaught Palace, New Delhi 110 001.
- 3.The State of Tamil Nadu,
rep.by its Secretary to Government,



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Commercial Taxes and Registration Department,
Secretariat, Fort St.George,
Chennai 600 009.

4.Principal Secretary/Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhiligam, Chepauk,
Chennai 600 005.

5.The State Tax Officer,
Munichalai Road Circle,
Madurai -20.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the 1st respondent in Notification No.09/2023 - Central Tax dated 31-03-2023 and the records on the file of the 3rd respondent in G.O Ms.No.41 and quash the Notification dated 05-04-2023 issued therein and the records on the files of the 5th respondent in GSTN 33AAFCK4756R1ZW dated 31.12.2023 and quash the same as manifestly arbitrary, void, contrary to the provision of Section 168A of the Goods and Services Tax Act, 2017 and violative of Articles 14 and 19(1)(g) of the Constitution of India and illegal, without jurisdiction and against the principles of natural justice.

For Petitioner : Mr.Raja Jeya Chandra Paul.S.

For R3 to R5 : Mr.R.Suresh Kumar
Additional Government Pleader



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ORDER

The petitioner has challenged the impugned notification issued by the first respondent in Notification No.09/2023 - Central Tax dated 31-03-2023, the records of the third respondent in G.O Ms.No.41 and the records of the fifth respondent in GSTN 33AAFCK4756R1ZW dated 31.12.2023.

2.*Prima facie* it appears that the impugned order passed by the fifth respondent has failed to consider the orders passed earlier in respect of the same issue on 01.03.2019, 06.03.2019 and 04.03.2019 for the assessment years 2015-2016, 2016-2017 and 2017-2018 respectively. The petitioner has also replied to the same, but failed to appear before the respondents by explaining the position. Aggrieved by the aforesaid order, the petitioner further filed an application for rectification on 05.03.2024, which has been summarily rejected by the respondents vide order dated 22.03.2024 citing Section 161 of the respective GST enactment.

3.Since the order has been passed without considering the orders dated 01.03.2019, 06.03.2019 and 04.03.2019 for the respective assessment years and



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without affording an opportunity of being heard, the impugned order is set aside and the case is remitted back to the fifth respondent to pass fresh orders on merits and in accordance with law. While passing *de nova* order, the fifth respondent shall consider the orders passed on 01.03.2019, 06.03.2019 and 04.03.2019 for the respective assessment years. This exercise is expected to be completed by the fifth respondent within a period of 12 weeks from the date of receipt of a copy of this order.

4.The Writ Petition stands allowed, with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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05.04.2024

To

1.Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St.George,
Chennai 600 009.

2.Principal Secretary/Commissioner of Commercial Taxes,

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C.SARAVANAN, J.

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