BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.9885 and 9886 of 2024
and
W.M.P.(MD)Nos.8964 & 8965 of 2024

M/s.Janani International Private Limited,
Represented by its Director M.Pandiyaraj,
GSTIN 33AABCJ6445J1ZJ,
241/4, Rajapalayam Road,
Chatrapatti – 626 102,
Virudhunagar District. ... Petitioner in both the W.Ps.

Vs.

1.The Assistant Commissioner (ST),
Sivakasi III Assessment Circle,
Commercial Taxes Buildings,
Sivakasi.

2.The State of Tamil Nadu,
Represented by its Secretary Commercial
Taxes Department,
Fort St. George,
Chennai - 600 009.

3.Union of India,
Ministry of Finance Raj Path Marg, 'E' Block
Central Secretariat,
New Delhi - 110011. ... Respondents in both the W.Ps.

Prayer in W.P.(MD)No.9885 of 2024:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in GSTIN.33AABCJ6445J1ZJ/2017-18, vide Reference No. ZD331223289248A, dated 31.12.2023, quash the same as cryptic, non-speaking, illegal, arbitrary, wholly without jurisdiction and direct the first respondent to pass order afresh by considering the objections and records filed by the petitioner on 15.5.2023 and 29.9.2023 after affording opportunity of personal hearing as contemplated under Section 75(4) of the TNGST Act, 2017.

Prayer in W.P.(MD)No.9886 of 2024:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in GSTIN.33AABCJ6445J1ZJ/2018-19 vide Reference No. ZD330124023368R, dated 05.01.2024, quash the same as cryptic, non-speaking, illegal, arbitrary, wholly without jurisdiction and direct the first respondent to pass order afresh by considering the objections and records filed by the petitioner on 16.06.2023 after affording opportunity of personal hearing as contemplated under Section 75(4) of the TNGST Act, 2017.

For Petitioner
in both the W.Ps. : Mr.S.Karunakar

For R1 and R2
in both the W.Ps. : Mr.R.Suresh Kumar
Additional Government Pleader

For R3 in W.P.(MD)No.9885 / 2024 : No Appearance

For R3 in W.P.(MD)No.9886 / 2024 : Mr.K.Maharajan
Central Government
Standing Counsel

COMMON ORDER

Heard the learned counsel appearing for the parties.

2. In these Writ Petitions, the petitioner has challenged the impugned orders both dated 31.12.2023 and 05.01.2024 for the Assessment Years 2017-2018 and 2018-2019 respectively, on the ground that there is violation of principles of natural justice, inasmuch as the amounts that were paid by the petitioner have also been ignored and tax has been confirmed on the petitioner in terms of the proposals contained in DRC-01 issued to the petitioner, which preceded a notice in DRC-01A for the respective Assessment Years.

3. The learned counsel for the petitioner has produced a Table to demonstrate the above deficiencies in the impugned order. That apart, it is submitted that even though the reply is skeletal, the petitioner has produced the documents during the personal hearing, which have not been properly discussed, instead the Officer has merely rejected the submissions of the petitioner without any reasoning.

4. Having considered the submissions made by the learned appearing for the parties, I am inclined to set aside the impugned orders by giving the petitioner a fresh opportunity to substantiate the case afresh by filing a detailed reply to the respective notices issued to him in DRC-01.

5. The impugned order, which stands quashed shall be treated as Corrigendum to the notice issued to the petitioner for the respective Assessment Years under DRC-01. The petitioner shall file reply within a period of 30 days from the date of receipt of a copy of this order. The petitioner shall also pay 10% of the disputed tax for the respective Assessment Years. For the Assessment Year 2017-2018, while arriving at 10% of the disputed tax, the amount paid by the petitioner as tax for the Assessment Year 2017-2018, shall be excluded and on the balance amount, the petitioner shall pay 10% of the disputed tax within a period of 30 days. The first respondent shall thereafter fix a hearing and call upon the petitioner to come for a hearing. The petitioner shall produce all the records and explain the case properly. The first respondent shall endeavour to pass fresh orders on merits within a period of 30 days thereafter.

6. Accordingly, these Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No
Neutral Citation: Yes / No 29.04.2024
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To

1.The Assistant Commissioner (ST),
Sivakasi III Assessment Circle,
Commercial Taxes Buildings,
Sivakasi.

2.The Secretary to Government of Tamil Nadu,
Commercial Taxes Department,
Fort St. George,
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C.SARAVANAN, J.

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