BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.14409 to 14411 & 11629 of 2024
and
W.M.P.(MD)Nos.12638, 12639, 12704, 12705,
12657, 12660, 10359 & 10360 of 2024

W.P.(MD)No.14409 of 2024:

Chakra Club,
Represented by its Secretary K.Muthuraj. ... Petitioner

Vs.

The State Tax Officer-1,
Intelligence,
O/o the Deputy Commissioner (ST) (Inspection),
Commercial Taxes Building,
Madurai Road,
Virudhungar. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned assessment order passed by the respondent in GSTIN: 33AABAC7987J1ZD/2018-19 dated 22.12.2023, and quash the same.

For petitioner : Mr.T.Bashyam
For respondent : Mr.J.K.Jayaselan
Government Advocate

W.P.(MD)No.14410 of 2024:

Chakra Club,
Represented by its Secretary K.Muthuraj. ... Petitioner

Vs.

The State Tax Officer-1,
Intelligence,
O/o the Deputy Commissioner (ST) (Inspection),
Commercial Taxes Building,
Madurai Road,
Virudhungar. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned assessment order passed by the respondent in GSTIN: 33AABAC7987J1ZD/2019-20 dated 22.12.2023, and quash the same.

For petitioner : Mr.T.Bashyam
For respondent : Mr.J.K.Jayaselan
Government Advocate

W.P.(MD)No.14411 of 2024:

Chakra Club,
Represented by its Secretary K.Muthuraj. ... Petitioner

Vs.

The State Tax Officer-1,
Intelligence,
O/o the Deputy Commissioner (ST) (Inspection),
Commercial Taxes Building,
Madurai Road,
Virudhungar. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned assessment order passed by the respondent in GSTIN: 33AABAC7987J1ZD/2021-22 dated 22.12.2023, and quash the same.

For petitioner : Mr.T.Bashyam
For respondent : Mr.J.K.Jayaselan
Government Advocate

W.P.(MD)No.11629 of 2024:

Chakra Club,
Represented by its Secretary K.Muthuraj. ... Petitioner

Vs.

The State Tax Officer-1,
Intelligence,
O/o the Deputy Commissioner (ST) (Inspection),
Commercial Taxes Building,
Madurai Road,
Virudhungar. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned assessment order passed by the respondent in GSTIN: 33AABAC7987J1ZD/2020-21 dated 22.12.2023, and quash the same.

For petitioner : Mr.T.Bashyam
For respondent : Mr.J.K.Jayaselan
Government Advocate

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COMMON ORDER

By this common order, all the four Writ Petitions are taken up for disposal.

2. These Writ Petitions are disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Government Advocate for the respondent after dispensing with the requirements to file counter for the respondent.

3. In these Writ Petitions, the petitioner has challenged the impugned assessment orders passed by the respondent, wherein, the following amounts have been confirmed:

S.No	W.P.(MD)No.	Assessment year	Demand
1.	14409 of 2024	2018-19	Rs.28,012/-
2.	14410 of 2024	2019-20	Rs.69,466/-
3.	11629 of 2024	2020-21	Rs.31686/-
4.	14411 of 2024	2021-22	Rs.28,728/-

4. The case of the petitioner is that the petitioner's club was inspected by the Intelligence Wing on 16.11.2022 and the intimation was sent to the petitioner on 29.12.2022.

5. It is the further case of the petitioner that the petitioner has also suitably explained the case to the Intelligence Wing by filing reply on 24.01.2023. Thereafter, the case was transferred to Assessment Circle *i.e.*, the respondent herein (The State Tax Officer-I).

6. It is submitted that thereafter, the show cause notices were issued to the petitioner in DRC 01 on the various dates as mentioned in the impugned orders. The petitioner, however, failed to reply assuming that the demands would have been dropped by the Intelligence Wing, pursuant to the petitioner's reply dated 24.01.2023.

7. The learned counsel for the petitioner would submit that the issue is no longer *res integra* as the law has been settled in the context of decision rendered by the Hon’ble Culcutta High Court in the case of ***Culcutta Club vs. Deputy***

Commissioner and few decisions of the Hon'ble Supreme Court.

8. It is submitted that in the light of the decision rendered by this Court as also by the other High Courts including Hon'ble Supreme Court, the demands are liable to be quashed.

9. The above submissions are opposed by the learned Government Advocate for the respondent, on the ground that these Writ Petitions are hopelessly time barred and therefore, liable to be dismissed, on account of latches, in the light of the decision of the Hon'ble Supreme Court in the case of ***Assistant Commissioner (CT) LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited*** reported in ***2020 SCC Online SC 440.***

10. It is submitted that the appellate remedy is also time barred in terms of limitation under Section 107 of the respective GST Enactments as held by the Hon'ble Supreme Court in the case of ***Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others*** reported in ***(2008) 3 SCC 70*** and submitted that these Writ Petitions are liable to be dismissed.

11. Having considered the submissions made by the learned counsel for the petitioner and learned Government Advocate for the respondent, I do not wish to dilate on the taxability on the supplies made by the petitioner, under the new regime with effect from 01.07.2017, under the respective GST enactments. The matter may require some consideration on merits. Therefore, the prayer of the petitioner for quashing as such cannot be considered.

12. However, the balance interest of the petitioner and the Department, this Court is inclined to set aside the impugned orders by remitting the cases back to the respondent to pass fresh orders, subject to the petitioner depositing 10% of disputed tax to the credit of the respondent from its Electronic Cash Register within a period of 30 days from the date of receipt of this order.

12. The impugned orders, which stand quashed, shall be treated as addendum to the show cause notices that preceded the impugned orders.

13. It is expected that the petitioner shall file a reply within a period of 30 days from the date of receipt of a copy of this order. The respondent shall,

thereafter, pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of two months, subject to the above deposit. Needless to state, the petitioner shall be heard before passing the order.

These Writ Petitions are disposed of, with above directions. No costs. Consequently connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

03.07.2024

To
The State Tax Officer-1,
Intelligence,
O/o the Deputy Commissioner (ST) (Inspection),
Commercial Taxes Building,
Madurai Road,
Virudhungar.

C.SARAVANAN, J.

apd

W.P.(MD) Nos.14409 to 14411 & 11629 of 2024

03.07.2024