BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.13142 to 13144 of 2024
and
W.M.P.(MD)Nos.11644 to 11649 of 2024

In W.P.(MD)No.13142 of 2024

Tvl.Kamatchi Amman Hardwares,
Represented by its Proprietor A.Mariammal,
7/3, Gomathi Nagar First Street,
Ilangi, Tankasi. ... Petitioner

Vs.

The State Tax Officer,
Sengottai Assessment Circle,
Tenkasi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the respondent vide his order in ARN:AD3306230507546 GSTIN:33BNQM4619H1ZR/2018-19 dated 21.11.2023 and quash the same as it is illegal and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of the

GST Act.

For petitioner : Mr.A.Satheesh Murugan

For respondent : Mr.J.K.Jeyaselan
Government Advocate

In W.P.(MD)No.13143 of 2024:

Tvl.Kamatchi Amman Hardwares,
Represented by its Proprietor A.Mariammal,
7/3, Gomathi Nagar First Street,
Ilangi, Tankasi. ... Petitioner

Vs.

The State Tax Officer,
Sengottai Assessment Circle,
Tenkasi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the respondent vide his order in ARN:AD330623050771A GSTIN:33BNQM4619H1ZR/2019-20 dated 21.11.2023 and quash the same as it is illegal and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of the GST Act.

For petitioner : Mr.A.Satheesh Murugan

For respondent : Mr.J.K.Jeyaselan
Government Advocate

In W.P.(MD)No.13144 of 2024

Tvl.Kamatchi Amman Hardwares,
Represented by its Proprietor A.Mariammal,
7/3, Gomathi Nagar First Street,
Ilangi, Tankasi. ... Petitioner

Vs.

The State Tax Officer,
Sengottai Assessment Circle,
Tenkasi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the respondent vide his order in ARN:AD330623050811E GSTIN:33BNQM4619H1ZR/2021-22 dated 21.11.2023 and quash the same as it is illegal and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of the GST Act.

For petitioner : Mr.A.Satheesh Murugan

For respondent : Mr.J.K.Jeyaselan
Government Advocate

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COMMON ORDER

By this common order, these three Writ Petitions have been disposed of.

2. Heard the learned counsel for the petitioner and the learned

Government Advocate for the respondent.

3. The petitioner is aggrieved by the impugned orders dated 21.11.2023 passed for the assessment years 2018-19, 2019-20 and 2021-22. The impugned order precedes the notices in Form GST DRC 01A dated 27.06.2023 and Form GST DRC 01 dated 08.09.2023.

4. It is noticed that the three personal hearing notices were sent to the petitioner on 06.10.2023, 25.10.2023 and 07.11.2023. Despite the same, the petitioner has not appeared for the personal hearing and therefore, based on the available materials, the impugned orders have been passed.

5. The case of the petitioner is that the petitioner is a small scale operator and was unaware of the notices that were posted in the GST common portal. It is further submitted that the petitioner was also unaware of the impugned orders dated 21.11.2023 being sent to the petitioner on the GST Common Portal.

6. The above submission is opposed by the learned Government Advocate

for the respondent, on the ground that the Writ Petition is 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.***

7. It is submitted that the appellate remedy is also time barred in terms of limitation under Section 107 of the TNGST Act, 2017, 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 this Writ Petition is liable to be dismissed.

8. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent, this Court is of the view that the petitioner may have a case on merits and therefore, discretion is exercised in favour of the petitioner and quashed the impugned order, subject to the petitioner depositing 10% of disputed tax to the credit of the respondent within a period of 30 days from the date of receipt of this order from

the Electronic Cash Register.

9. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice that preceded the impugned order.

10. 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 three 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 direction. No costs. Consequently connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

21.06.2024

To
The State Tax Officer,

Sengottai Assessment Circle,
Tenkasi.

C.SARAVANAN, J.

apd

W.P.(MD) No.13142 to 13144 of 2024

21.06.2024