BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.13650 & 13651 of 2024
and
W.M.P.(MD)Nos.12016, 12017, 12020 & 12024 of 2024

In W.P.(MD)No.13650 of 2024:

Tvl.Solai Venkateshwara Stores,
Represented by its Proprietrix:Lakshmi Priya. ... Petitioner

Vs.

1.The State Tax Officer,
Thanjavur I Assessment Circle,
C.T.Buildings,
No.1, Sachindanandha Moopanar Road,
Thanjavur.

2.The Appellate Deputy Commissioner (GST),
Trichy. ... Respondents
(R2 is suo motu impleaded vide order dated 27.06.2024
in W.P.(MD)Nos.13650 & 13651 of 2024)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the respondent in GSTIN: 33AUVPL3939J1Z0/2021-22 dated 30.05.2023 and to quash the same as illegal, against the provisions of law.

For petitioner : Mr.S.Raja Jeya Chandra Paul
For respondents : Mr.R.Suresh Kumar
Additional Government Pleader

In W.P.(MD)No.13651 of 2024:

Tvl.Solai Venkateshwara Stores,
Represented by its Proprietrix:Lakshmi Priya. ... Petitioner

Vs.

1.The State Tax Officer,
Thanjavur I Assessment Circle,
C.T.Buildings,
No.1, Sachindanandha Moopanar Road,
Thanjavur.

2.The Appellate Deputy Commissioner (GST),
Trichy. ... Respondents
(R2 is suo motu impleaded vide order dated 27.06.2024
in W.P.(MD)Nos.13650 & 13651 of 2024)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the respondent in GSTIN: 33AUVPL3939J1Z0/2022-23 dated 26.05.2023 and to quash the same as illegal, against the provisions of law.

For petitioner : Mr.S.Raja Jeya Chandra Paul
For respondents : Mr.R.Suresh Kumar
Additional Government Pleader

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COMMON ORDER

By this common order, these two Writ Petitions are disposed of. Heard learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

2. The petitioner/proprietrix concern is before this Court challenging the impugned orders dated 30.05.2023 and 26.05.2023 bearing reference No.GSTIN: 33AUVPL3939J1Z0 for the assessment years 2021-22 and 2022-23, respectively, whereby the demands proposed in the show cause notices, that preceded the impugned orders, have been confirmed.

3. By these impugned orders, the following amounts have been confirmed:

S. No	Assessment year	Tax Rs.	Interest Rs.	Penalty Rs.	Fee Rs.	Others Rs.	Total Rs.
1.	2021-22	5,21,354.00	2,70,224.00	6,21,354.00	0.00	0.00	14,12,932.00
2.	2022-23	2,81,756.00	51,402.00	2,81,756.00	0.00	0.00	6,14,914.00

4. It is the case of the petitioner that the godown of the sister's concern was demolished and therefore, the stocks were transferred and were found in the

premises of the petitioner at the time of inspection on 13.05.2022.

5. The learned counsel for the petitioner submits that after the order was passed, the petitioner's husband Mr.Bhuvanesh kumar fell ill and was hospitalized. Hence, the petitioner could not file statutory appeal before the Appellate Deputy Commissioner (GST), Trichy, in terms of Section 107 of the respective GST enactments.

6. It is submitted that the Department has, now, attached the bank account of the petitioner towards tax liability, interest and penalty for a sum of Rs.20,27,846/- on 22.05.2024.

7. The learned counsel for the petitioner submits that the petitioner has also paid a sum of Rs.1,00,000/- in cash and that the Department itself has recovered a sum of Rs.40,096/- from the petitioner's Electronic Credit Ledger.

8. It is submitted that the petitioner may be given one opportunity to file statutory appeal as the demand that has been confirmed is unjustified and the

interest and penalty that has been imposed on the petitioner as a cash getting effect in the petitioner's tax liability.

9. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents, the Court is inclined to exercise the discretion partly in favour of the petitioner by granting relief to file statutory appeal before the Appellate Deputy Commissioner (GST), Trichy. For the aforesaid purpose, Appellate Deputy Commissioner (GST), Trichy is *suo motu* impleaded as second respondent in these Writ Petitions.

10. The petitioner shall file an appeal within a period of 30 days from the date of receipt of a copy of this order together with the deposit of another 25% of the disputed tax over and above the amount that is said to have been recovered from the petitioner. Subject to above, the second respondent shall entertain the petitioner's appeals and dispose of on merits and in accordance with law as expeditiously as possible preferably within a period of three months of filing of appeal. In case the petitioner fails to file such an appeal with pre-deposit as ordered, the relief granted by this Court shall stand automatically revoked, *sine*

die without further reference to this Court.

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

Index : Yes / No **27.06.2024**
Internet : Yes / No
apd

To

1.The State Tax Officer,
Thanjavur I Assessment Circle,
C.T.Buildings,
No.1, Sachindanandha Moopanar Road,
Thanjavur.

2.The Appellate Deputy Commissioner (GST),
Trichy.

C.SARAVANAN, J.

apd

W.P.(MD) Nos.13650 & 13651 of 2024

27.06.2024