BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.14539 to 14541of 2024
and
W.M.P.(MD)Nos.12760, 12762 to 12766 of 2024

In W.P.(MD)No.14539 of 2024:
Vidura Enterprises,
Represented by its Proprietor Chellamma. ... Petitioner

Vs.

The State Tax Officer,
O/o.the State Tax Officer,
Thanjavur-II,
Thanjavur District. ... 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 order passed by the respondent in GSTIN:33CABPJ9313A1ZC/2020-21 dated 19.04.2023 and quash the same.

For petitioner : Mr.T.Mohan
Senior Counsel
For respondent : Mr.R.Suresh Kumar
Additional Government Pleader

In W.P.(MD)No.14540 of 2024:

Vidura Enterprises,
Represented by its Proprietor Chellamma. ... Petitioner

Vs.

The State Tax Officer,
O/o.the State Tax Officer,
Thanjavur-II,
Thanjavur District. ... 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 order passed by the respondent in GSTIN:33CABPJ9313A1ZC/2021-22 dated 19.04.2023 and quash the same.

For petitioner : Mr.T.Mohan
Senior Counsel
For respondent : Mr.R.Suresh Kumar
Additional Government Pleader

In W.P.(MD)No.14541 of 2024:

Vidura Enterprises,
Represented by its Proprietor Chellamma. ... Petitioner

Vs.

The State Tax Officer,
O/o.the State Tax Officer,
Thanjavur-II,
Thanjavur District. ... 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 order passed by the respondent in GSTIN:33CABPJ9313A1ZC/2022-23 dated

20.04.2023 and quash the same.

For petitioner : Mr.T.Mohan
Senior Counsel
For respondent : Mr.R.Suresh Kumar
Additional Government Pleader

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COMMON ORDER

By this common order, these three 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 Additional Government Pleader respondent after dispensing with the respondent to file counter.

3. In this Writ Petition, the petitioner has challenged the impugned assessment orders dated 19.04.2022 passed for the assessment year 2020-21 and 2021-22 and the impugned assessment order dated 20.04.2023 passed for the assessment year 2022-23.

4. A reading of the impugned order for the assessment year 2020-21

indicates that the petitioner was issued with notices in DRC 01A, dated 25.11.2022, DRC 01, dated 24.01.2023. Similar impugned notices were issued to the petitioner for the rest of the assessment years.

5. It appears that the petitioner's auditor was responsible for the notices. However, he failed to intimate the same and therefore, notices were not replied by the petitioner.

6. On behalf of the respondent, the learned Additional Government Pleader for the respondent would submit that this Writ Petition is devoid of merits and liable to be dismissed as these Writ Petitions have been filed long after the impugned orders dated 19.04.2023 and 20.04.2023 were passed.

7. Further, the learned Additional Government Pleader 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.***

8. 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.

9. Having considered the submissions made by the learned counsel for the petitioner and Additional Government Pleader for the respondent, this Court is inclined to exercise the discretion partly in favour of the petitioner and quashed the impugned orders, subject to the petitioner depositing 10% of disputed tax to the credit of the respondent from its Electronic Cash Register.

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

11. 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 together with the above

deposit. The respondent shall, thereafter, pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of 60 days thereafter, subject to the above deposit. Needless to state, the petitioner shall be heard before passing the order.

12. It is made clear that in case the petitioner failed to reply along with the above deposit within 30 days from the date of receipt of a copy of this order, the concession granted by this Court shall stands revoked *sine die* without reference to this Court.

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

Index : Yes / No
Internet : Yes / No
apd

02.07.2024

To
The State Tax Officer,
O/o.the State Tax Officer,
Thanjavur-II,
Thanjavur District.

C.SARAVANAN, J.

apd

W.P.(MD) Nos.14539 to 14541 of 2024

02.07.2024