BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.16615 to 16618 of 2024
and
W.M.P.(MD)Nos.14381, 14383, 14386,
14387, 14389 to 14392 of 2024

In W.P.(MD)No.16615 of 2024:
V.S.Palanivel ... Petitioner

Vs.

The Deputy State Tax Officer-I,
Pudukottai II Assessment Circle,
Pudukottai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the impugned order passed by the respondent vide his order in GSTIN: 33AHHPP7222R2ZS/2018-19 dated 06.02.2024 and quash the same as it is illegal, without jurisdiction and in gross violation of principles of natural justice and further direct the respondent to redo 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.R.Suresh Kumar
Additional Government Pleader

In W.P.(MD)No.16616 of 2024:

V.S.Palanivel ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Pudukottai II Assessment Circle,
Pudukottai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the impugned order passed by the respondent vide his order in reference no.ZD3301241307310 dated 29.01.2024 (Tax Period:Apr 2019-Mar 2020) and quash the same as it is illegal, without jurisdiction and in gross violation of principles of natural justice and further direct the respondent to redo 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.R.Suresh Kumar
Additional Government Pleader

In W.P.(MD)No.16617 of 2024:

V.S.Palanivel ... Petitioner

Vs.

The Deputy State Tax Officer-I,
Pudukottai II Assessment Circle,
Pudukottai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the impugned order passed by the respondent vide his order in GSTIN: 33AHHPP7222R2ZS/2020-21 dated 31.01.2024 and quash the same as it is illegal, without jurisdiction and in gross violation of principles of natural justice and further direct the respondent to redo 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.R.Suresh Kumar
Additional Government Pleader

In W.P.(MD)No.16618 of 2024:

V.S.Palanivel ... Petitioner

Vs.

The Deputy State Tax Officer-I,
Pudukottai II Assessment Circle,
Pudukottai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the impugned order passed by the respondent vide his order in GSTIN: 33AHHPP7222R2ZS/2021-22 dated 06.02.2024 and quash the same as it is illegal, without jurisdiction and in gross violation of principles of natural justice and further direct the respondent to redo 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.R.Suresh Kumar
Additional Government Pleader

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COMMON ORDER

By this common order these four Writ Petitions are taken up for disposal.

2. In these Writ Petitions, the petitioner has challenged the respective assessment orders as detailed below:

W.P. (MD)Nos.	Assessment Year	Impugned order/Date	Amount paid before passing impugned order Rs.	Total Demand Rs.
16615 of 2024	2018-19	33AHHPP7222R2ZS/06.02.2024		65954
16616 of 2024	2019-20	ZD3301241307310/29.01.2024	25,00,000	60,91,278
16617 of 2024	2020-21	33AHHPP7222R2ZS/31.01.2024	50,000	65,53,168.48
16618 of 2024	2021-22	33AHHPP7222R2ZS/06.02.2024		2,378
		Total		**1,27,12,778.48**

3. The specific case of the petitioner is that the petitioner has failed to respond to the respective notices that preceded the respective impugned orders and there is a gross violation of principles of natural justice.

4. It is submitted that as far as the impugned order for the assessment year 2018-19 is concerned, the impunged order has been passed under Section 74 of the respective GST enactments, eventhough there are no ingredients that are

available for invoking the machinaries under Section 74 of respective GST enactments.

5. As far as the impugned order for the assessment year 2019-20 is concerned, it is submitted that the impugned order is a non-speaking order.

6. As far as the demand that has been confirmed for the assessment year 2020-21 is concerned, it is submitted that the show cause notice that preceded the impugned order was under Section 73 of the respective GST enactments. However, the demand has been confirmed under Section 74 of the respective GST enactments.

7. As far as the assessment year 2021-22 is concerned, it is submitted that the show cause notice that was issued to the petitioner was confined only to the interest for the belated payment of tax, however, the tax has been further confirmed in the impugned order based on the alleged variance in the Return filed by the petitioner in GSTR 3B and the information gathered from GSTR 07.

8. The learned counsel for the petitioner further submits that the petitioner had already paid a sum of Rs.25,00,000/- and Rs.50,000/- for the assessment years 2019-20 and 2020-21, respectively before passing the impugned order. As per the impugned orders, the balance of Rs.1,27,12,778.48/- remains to be paid by the petitioner towards tax, penalty and interest.

9. It is submitted that the petitioner may be given one opportunity to respond by giving fresh representation and provide fresh opportunity by setting aside the impugned orders.

10. On the other hand, the learned Additional Government Pleader for the respondent submits that the petitioner has neglected in not participating in the show cause proceedings. Not only the notices were sent to the petitioner through the GST common portal, but also by registered post. However, the petitioner failed to respond to the same.

11. It is submitted that the petitioner has an alternative remedy before the Appellate Deputy Commissioner and therefore, the petitioner should be relegated

to file statutory appeal under Section 107 of the respective GST enactments.

12. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, the Court is of the view that the petitioner may have a case to explain and therefore, to balance the interest of the petitioner and the respondent, the Court is inclined to set aside the respective impugned orders on terms by remitting the cases back to the respondent to pass a fresh order, subject to the petitioner depositing 10% of the disputed tax to the credit of the respondent from its Electronic Cash Register.

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

14. The petitioner shall also file a reply within period of 30 days from the date of receipt of a copy of this order. In case any failure on the part of the petitioner either without depositing the said amount or filing reply within such

time, it is open for the respondent to proceed against the petitioner as all these Writ Petitions were dismissed.

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

Index : Yes / No
Internet : Yes / No
apd

24.07.2024

To
The Deputy State Tax Officer-I,
Pudukottai II Assessment Circle,
Pudukottai.

C.SARAVANAN, J.

apd

W.P.(MD) Nos.16615 to 16618 of 2024

24.07.2024