BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2024**

CORAM:

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.P.(MD) Nos.18139 to 18142 of 2024**
**and**
**W.M.P.(MD)Nos.15473, 15474, 15489, 15491, 15496, 15497, 15479 & 15482 of 2024**

M/s.Muthuram Blue Metals,
Represented by its Proprietor Babu Aravindh Lakshmi Rajam. ... Petitioner in all W.Ps

Vs.

The State Tax Officer (FAC),
Shengottai Circle,
Commercial Taxes Buildings,
Tenkasi. ... Respondent in all W.Ps

**PRAYER in W.P.(MD)No.18138 of 2024:** 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 order in ARN:AD330323034801L, GSTIN:33ABVPL0584E1ZJ/2017-18 dated 25.10.2023 and quash the same as it is illegal and passed in gross violation of natural justice and further direct the respondent to redo the assessment afresh after providing me an opportunity of personal hearing as per the provisions of the GST Act, 2017.

**PRAYER in W.P.(MD)No.18140 of 2024:** 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 order in ARN:AD330323035231T, GSTIN:33ABVPL0584E1ZJ/2018-19 dated 25.10.2023 and quash the same as it is illegal and passed in gross violation of natural justice and further direct the respondent to redo the assessment afresh after providing me an opportunity of personal hearing as per the provisions of the GST Act, 2017.

**PRAYER in W.P.(MD)No.18141 of 2024:** 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 order in ARN:AD330323035302S, GSTIN:33ABVPL0584E1ZJ/2019-20 dated 25.10.2023 and quash the same as it is illegal and passed in gross violation of natural justice and further direct the respondent to redo the assessment afresh after providing me an opportunity of personal hearing as per the provisions of the GST Act, 2017.

**PRAYER in W.P.(MD)No.18142 of 2024:** 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 order in ARN:AD330323035514J, GSTIN:33ABVPL0584E1ZJ/2021-22 dated 25.10.2023 and quash the same as it is illegal and passed in gross violation of natural justice and further direct the respondent to redo the assessment afresh after providing me an opportunity of personal hearing as per the provisions of the GST Act, 2017.

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| For petitioner in all W.Ps | : Mr.A.Satheesh Murugan |
| For respondent in all W.Ps | : 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. Heard the learned counsel for the petitioner and learned Additional Government Pleader for the respondent.

3. The petitioner is before this Court against the impugned orders passed by the respondent as detailed below:

| S.No | W.P.(MD)No. | Assessment Year | Impugned order dated |
|---|---|---|---|
| 1. | 18139 of 2024 | 2017-18 | 25.10.2023 |
| 2. | 18140 of 2024 | 2018-19 | 25.10.2023 |
| 3. | 18141 of 2024 | 2019-20 | 25.10.2023 |
| 4. | 18142 of 2024 | 2021-22 | 25.10.2023 |

4. By the impugned orders, the respondent has confirmed the demands in the respective notices that preceded the respective impugned orders.

5.The petitioner was earlier issued with the notices in DRC 01A dated 02.03.2023 and notice in DRC 01 dated 08.06.2024 for the respective assessment years.

6. The learned counsel for the petitioner submits that since the petitioner

was unaware of the issuance of the notices that preceded the impugned orders as they were posted in the GST common portal, the petitioner had not responded to the same.

7. It is submitted that for the same reason, the petitioner failed to notice the impugned orders and has not responded to the same.

8. It is submitted that the Court may put the petitioner to any reasonable terms so that the petitioner can explain the case. It is submitted that the petitioner may be given one opportunity to explain.

9. The above submission is opposed by 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.***

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 arguments advanced by the learned counsel for the petitioner, the learned Additional Government Pleader for the respondent, this Court is of the view that the petitioner may have a case on merits and therefore, discretion is exercised partly in favour of the petitioner by quashing the impugned order and remitting the case back to the respondent to pass a fresh order on merits, subject to the petitioner depositing 25% of disputed tax to the credit of the first 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 consolidated reply within a period of 30 days from the date of receipt of a copy of this order, together with above deposit. The respondent shall pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of two months thereafter. 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 **01.08.2024**
Internet : Yes / No
apd

To

The State Tax Officer (FAC),
Shengottai Circle,
Commercial Taxes Buildings,
Tenkasi.

**C.SARAVANAN, J.**

apd

**W.P.(MD) Nos.18139 to 18142 of 2024**

**01.08.2024**