BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)Nos.20925 of 2023, 1461 and 3158 of 2024
and
W.M.P.(MD)Nos.17331 of 2023, 1501, 1502, 3124 and 3126 of 2024

W.P.(MD)No.20925 of 2023:-

M.Antoney Selvan ... Petitioner

Vs.

The State Tax Officer (SGST) (FAC),
Tiruchendur,
Thoothukudi District. ... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the impugned assessment order on the file of respondent vide GSTIN : 33ALEPA9443N1ZZ/2019-20, dated 08.03.2023 and quash the same as illegal and devoid of merits.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.J.K.Jayaselan
Government Advocate

W.P.(MD)No.1461 of 2024:-

Tvl. Sri Rajalakshmi Blue Metal,
Rep. by its Partner T.Dinesh Kumar,
No.427/5A, APN Village,
Anainthaperumal Nadanoor,
Tirunelveli - 627 423. ... Petitioner

Vs.

The State Tax Officer,
Ambasamudram Assessment Circle,
Tirunelveli. ... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the impugned assessment order on the file of respondent vide GSTIN. 33ADNFS6454L1ZH/2020-21, dated 21.07.2023, quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2020-21.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.J.K.Jayaselan
Government Advocate

W.P.(MD)No.3158 of 2024:-

M/s.Kumar Agencies,
Rep. by its Proprietor P.Sivasubramanian,
No.101/70, Murugan Kovil Street,
Usilampatti,
Madurai – 625 532. ... Petitioner

Vs.

The Assistant Commissioner of CGST and Central Excise,
Madurai-I Division,
No.5, V.P. Rathinasamy Nadar Road,
Bibikulam,
Madurai – 625 002. ... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the impugned assessment order on the file of respondent vide DIN: 20231059XO0000999B38 - Order-in-Original 09/2023 GST, dated 18.10.2023, quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2017-18.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.R.Nandhakumar
Senior Standing Counsel

COMMON ORDER

In these Writ Petitions, the petitioners have challenged the following impugned orders passed by the respondents for the respective Assessment Years.

Sl. No.	W.P. (MD)No.	Petitioner	Impugned Order No.	Date	Assessment Year
1.	20925 / 2023	M.Antoney Selvan	GSTIN : 33ALEPA9443N1 ZZ/2019-20	08.03.2023	2019 - 2020

2.	1461 / 2024	Tvl. Sri Rajalakshmi Blue Metal	GSTIN : 33ADNFS6454L1ZH/2020-21	21.07.2023	2020 - 2021
3.	3158 / 2024	M/s.Kumar Agencies	DIN : 20231059XO0000999B38 - Order-in-Original 09/2023 GST	18.10.2023	2017 - 2018

2. In all these Writ Petitions, the petitioners have replied to the show cause notice, but have failed to file an appeal in time.

3. These Writ Petitions are opposed by the learned Government Advocate for the respondent in W.P.(MD)Nos.20925 of 2023 and 1461 of 2024 and the learned Senior Standing Counsel for the respondent in W.P.(MD)No.3158 of 2024 on the ground that the Writ Petitions are devoid of merits in the light of the decision of the Hon'ble Supreme Court in **Assistant Commissioner (CT), LTU, Kakinada and others** vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC OnLine SC 44. It is submitted that the appeals before the Appellate Commissioner will also be time barred in terms of the decision of the Hon'ble Supreme Court in **M/s.Singh Enterprises** vs. **Commissioner of Central Excise,**

Jamshedpur and others, (2008) 3 SCC 70. It is therefore submitted that these Writ Petitions are liable to be dismissed.

4. I have considered the arguments advanced by the learned counsel for the parties.

5. Although the learned counsel for the petitioners would make submissions on the questions of law at this stage, I am of the view that the submissions of the learned counsel for the petitioners on the questions of law cannot be entertained, save that the petitioners can be given liberty to work out their remedy before the Appellate Commissioner namely, the Deputy Appellate Commissioner under Section 107 of the GST Act subject to the petitioners depositing 25% of the disputed tax [10% being the mandatory requirement under Section 107 of the GST Act and 15% for approaching this Court for the remedy long after the limitation has expired].

6. In fine, the respective petitioners shall deposit 25% of the disputed tax from the Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order. Subject to the above, the petitioners' appeal shall be examined and decided on merits without reference to limitation.

7. These Writ Petitions stand disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No **01.07.2024**
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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To

1.The State Tax Officer (SGST) (FAC),
Tiruchendur,
Thoothukudi District.

2.The State Tax Officer,
Ambasamudram Assessment Circle,
Tirunelveli.

3.The Assistant Commissioner of CGST and Central Excise,
Madurai-I Division,
No.5, V.P. Rathinasamy Nadar Road,
Bibikulam,
Madurai – 625 002.

C.SARAVANAN, J.

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Common order in
W.P.(MD) Nos.20925 of 2023, 1461 and 3158 of 2024

01.07.2024