BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)Nos.21756 and 22410 of 2024
and
W.M.P.(MD)Nos.18380, 18381, 18992 and 18994 of 2024

W.P.(MD)No.21756 of 2024:

Kanagalakshmi ... Petitioner

Vs.

The Deputy Commissioner (State Tax),
Palani-I Assessment Circle,
Integrated Commercial Tax Buildings,
Kothaimangalam Post,
Palani Taluk – 624 618. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records in the impugned order dated 17.08.2023 with reference No.ZD3308230953754 on the file of the respondent and quash the same as manifestly arbitrary, void, contrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner : Mr.Saitanya Kesan

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

W.P.(MD)No.22410 of 2024:

Kanagalakshmi ... Petitioner

Vs.

The Deputy Commissioner (State Tax),
Palani-I Assessment Circle,
Integrated Commercial Tax Buildings,
Kothaimangalam Post,
Palani Taluk – 624 618. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records in the impugned order dated 17.08.2023 with reference No.ZD330823095510G on the file of the respondent and quash the same as manifestly arbitrary, void, contrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner : Mr.Saitanya Kesan

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

COMMON O R D E R

Both the Writ Petitions are filed challenging the orders of assessment under Section 73 of the TNGST Act for the assessment year 2019-2020 dated 17.08.2023.

2. It is submitted by the learned counsel for the petitioner that for the assessment year 2019-2020, two orders of assessment were made for the very same assessee on the very same date in respect of very same value of supply. It is thus submitted that one of the two orders would have to necessarily go as there is duplication, which is not seriously disputed by the learned Additional Government Pleader for the respondent.

3. It is submitted that the impugned order of assessment has been passed overlooking the fact that the petitioner had filed her reply in response to DRC01A. However, the impugned order proceeds on the premise that the petitioner has not filed any reply which according to the learned counsel for the petitioner constitutes non application of mind.

4. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to put forth his objection.

5. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of ***M/s.K.Balakrishnan, Balu Cables vs. O/o. the Assistant Commissioner of GST & Central Excise in W.P.(MD)No.11924 of 2024 dated 10.06.2024***.

6. It was further submitted that that the petitioner is ready and willing to pay 25% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

7. In view thereof, the impugned orders are set aside and the petitioner shall deposit 25% of the disputed tax within a period of two (2) weeks from the date of receipt of a copy of this order. On complying with the above condition the respondent shall issue a notice indicating which of the two impugned assessment orders they intend to proceed and the impugned order of assessment in such proceedings as indicated by the respondent shall be treated as show cause notice. The petitioner shall submit its objections within a period of four

(4) weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. If the above deposit is not paid or the objections are not filed within the stipulated period, i.e., two weeks and four weeks respectively, from the date of receipt of a copy of this order, the impugned order of assessment shall stand revived.

8. Accordingly, the Writ Petitions stand disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

<u>To:</u>

The Deputy Commissioner (State Tax),
Palani-I Assessment Circle,
Integrated Commercial Tax Buildings,
Kothaimangalam Post,
Palani Taluk – 624 618.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)Nos.21756 and 22410 of 2024

20.09.2024