BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.25744 to 25748 of 2022
and
W.M.P.(MD) Nos.19851, 19852, 19854, 19856 & 19857 of 2022

M/s.Meganth Venture,
Represented by its Proprietor
M.Nagarajan,
No.78, Nehruji Nagar,
80 Feet Road, Dindigul. ... Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (ST),
Fort Assessment Circle,
Commercial Tax Buildings,
Dindigul. ... Respondent in all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in TNGST Act Roc. 101/2017/2005-06, TNGST Act Roc.101/2017/2006-07, TIN 33545201371/2007-08, TIN 33545201371/2008-09 & TIN 33545201371/2009-10 dated 26.08.2022 and consequential proceedings dated 20.10.2022 in Roc.No.101/2017/2005-06, Roc.No.

101/2017/2006-07, TIN 33545201371/2007-08, TIN 33545201371/2008-09 & TIN 33545201371/2009-10 and quashing both as illegal, arbitrary and in violation of the principles of natural justice and directing the respondent to pass assessment order afresh after affording an opportunity of being heard by considering the replies dated 18.10.2022 filed by the petitioner within such time as may be directed by this Court.

For Petitioner
in all W.Ps. : Mr.S.Karunakar

For Respondent
in all W.Ps. : Mr.R.Suresh Kumar
Additional Government Pleader

COMMON ORDER

By this common order, all these Writ Petitions are being disposed of.

2. In these Writ Petitions, the petitioner has challenged the following impugned assessment orders and consequential orders:-

Sl. No	W.P. (MD) No	Ref. No. of the Impugned assessment order dated 26.08.2022	Ref. No. of the impugned consequential order dated 20.10.2022
1	25744/22	TNGST Act Roc.101/2017/2005-06	Roc.No.101/2017/2005-06
2	25745/22	TNGST Act Roc.101/2017/2006-07	Roc.No.101/2017/2006-07
3	25746/22	TIN 33545201371/2007-08	TIN33545201371/2007-08
4	25747/22	TIN 33545201371/2008-09	TIN33545201371/2008-09
5	25748/22	TIN 33545201371/2009-10	TIN33545201371/2009-10

3. This is the third round of litigation before this Court by the petitioner. Earlier, at the stage of issuance of pre-assessment notices pursuant to the inspection held on 18.10.2016, the petitioner had approached this Court in W.P.(MD) Nos.8353 & 8354 of 2018. It appears that by an order dated 12.07.2018, the said Writ Petitions were disposed of by directing the petitioner to file reply to the respective pre-assessment notices issued by the respondent which culminated in the following assessment orders, against which, W.P.(MD) Nos.4531, 1764 to 1767 of 2019 were filed before this Court:-

Sl. No.	***W.P.(MD) No.***	***A.Y***	***Assessment Order dated***
1	4531/2019	2005-2006	30.11.2018
2	1764/2019	2007-2008	20.12.2018
3	1765/2019	2008-2009	20.12.2018
4	1766/2019	2009-2010	21.12.2018
5	1767/2019	2006-2007	28.12.2018

4. By two separate orders dated 17.03.2022, the above Writ Petitions were disposed of by this Court by remitting the case back to the respondent to pass speaking orders after furnishing the copy of the

internal communication dated 17.12.2016 between the respondent and the Enforcement Wing from the office of the Tamil Nadu Minerals Limited, based on which, the aforesaid assessment orders are said to have been passed. Relevant portion of the order dated 17.03.2022 in W.P.(MD) No. 4531 of 2019 for the Assessment Year 2005-2006 reads as under:-

> "*9.There is no dispute that the petitioner has excavated 48.39 cubic meters of granite during the period in dispute. During the assessment year 2005-2006, the respondent has arrived at the value of excavated granite at Rs. 20,774/- per cubic feet, based on a letter of the Divisional Manager of TAMIN dated 17.12.2016. The petitioner is entitled to have a copy of the aforesaid letter before the taxable value was determined by the respondent. It is open for the petitioner to get a suitable certificate from a Geologist regarding the value of the granite sold by the petitioner during the above said period. Neither the respondent has furnished the copy of the letter dated 17.12.2016 to the petitioner, nor the petitioner has made an attempt to bring any evidence to dislodge the presumption in the notice and to disprove the claim of the respondent. The truth lies in between which has not been determined by the petitioner and also not determined by the respondent.*
>
> *10.Considering the above, I am inclined to remit the case back to the respondent to pass a speaking order within a period of 90 days from the date of receipt of a copy of this order. The respondent is directed to furnish a copy of the letter dated 17.12.2016 to the petitioner. The petitioner is also entitled to produce collateral evidence to show that*

the value of the granite that was excavated by the petitioner during 2005-2006 was not as per the letter dated 17.12.2016 of the Divisional Manager of TAMIN. The respondent is directed to furnish a copy of the letter of the Divisional Manager of TAMIN to the petitioner within a period of 30 days from the date of receipt of a copy of this order. The petitioner is directed to give a reply to the proceedings along with supplementary evidence that may be available with him to the respondent. The respondent shall pass appropriate orders on merits and in accordance with law within a period of 30 days thereafter. It is made clear that the entire exercise shall be completed within a period of 90 days from the date of receipt of a copy of this order. It is also made clear that the respondent is entitled to rely on the information that might not have been come to their notice, including the letters issued by the statutory authority giving the value. However, the petitioner cannot have a right to cross-examine the officers. Independently, the petitioner can proceed, as the collateral evidence to show that the value given by the Divisional Manager of TAMIN was incorrect.

11.This Writ Petition is disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed."

5. Pursuant to the aforesaid orders, the petitioner was given 2 opportunities of personal hearing on 10.08.2022 and 18.08.2022. It is the case of the petitioner in these Writ Petitions is that without giving adequate time for the petitioner to produce documents required, the impugned assessment orders have been passed.

6. This Court is of the view that these Writ Petitions are nothing but an abuse of court proceedings. Since these Writ Petitions have been filed in time within few days after the impugned assessment orders were passed on the aforesaid dates, I direct the petitioner to file statutory appeals before the Appellate Authority under Section 107 of the TNGST Act, 2017 within a period of 30 days from the date of receipt of a copy of this order. Needless to state, the petitioner shall make pre-deposit as is contemplated under the provisions of TNGST Act, 1959 and TNVAT Act, 2006.

7. Accordingly, these Writ Petitions are dismissed. No cost. Consequently, connected Miscellaneous Petitions are closed.

12.06.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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Copy To:

The Commercial Tax Officer,
(Now State Tax Officer)
Ramanathapuram Assessment Circle,
Ramanathapuram.

C.SARAVANAN, J.

JEN

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