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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.629 of 2025 & WMP.Nos.769 & 772 of 2025
and
W.P.No.631 of 2025 & WMP.Nos.776 & 777 of 2025
and
W.P.No.636 of 2025 & WMP.Nos.780 & 781 of 2025
and
W.P.No.641 of 2025 & WMP.Nos.783 & 784 of 2025

W.P.Nos. 629 & 631 of 2025

Velkanni Kannan
Proprietor,
Tvl.Sri Amman Transport,
87 B/1, Puchammal Street,
New Washermenpet,
Chennai, Tamil Nadu – 600 081. ... Petitioner

Vs.

The State Tax Officer (ST)
(also known as Commercial Tax Officer)
Tondiarpet Assessment Circle,
Station: No.32, Integrated Commercial
Taxes office Complex,
Elephant Gate Bridge Road,
Chennai – 600 003. ... Respondent

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W.P.No.636 of 2025

Velkanni Kannan
Proprietor,
Tvl.Sri Amman Transport,
87 B/1, Puchammal Street,
New Washermenpet,
Chennai, Tamil Nadu – 600 081. ... Petitioner

Vs.

1. The State Tax Officer (ST)
(also known as Commercial Tax Officer)
Tondiarpet Assessment Circle,
Station: No.32, Integrated Commercial
Taxes office Complex,
Elephant Gate Bridge Road,
Chennai – 600 003.

2.The Deputy State Tax Officer-2 (FAC)
(also known as Deputy Commercial Tax officer)
Office of the Assistant Commissioner (ST),
Tondiarpet Assessment Circle,
Integrated Commercial Taxes Building,
Chennai North Division,
No.32, Elephant Gate Bridge Road
(Walltax Road),Vepery, Chennai – 600 003.... Respondents

W.P.No.641 of 2025

Velkanni Kannan
Proprietor,
Tvl.Sri Amman Transport,
87 B/1, Puchammal Street,
New Washermenpet,
Chennai, Tamil Nadu – 600 081. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Tondiarpet Assessment Circle,
Integrated Building for Commercial Taxes Dept.
No.32, Elephant Gate Bridge Road,
Chennai – 600 001. ... Respondent

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PRAYER in W.P.No.629 of 2025: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari call for the records on the files of the respondent herein in GSTIN: 33AKGPK3150P3ZZ/2020-21 dated 26.09.2024 and the connected order under Section 73 dated 26.09.2024 and the summary of the order in Form GST DRC-07 dated 26.09.2024 issued in Reference No.ZD3309241760964 and quash the same.

PRAYER in W.P.No.631 of 2025: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari call for the records on the files of the respondent herein in GSTIN: 33AKGPK3150P3ZZ/2021-22 dated 26.09.2024 and the connected order under Section 73 dated 26.09.2024 and the summary of the order in Form GST DRC-07 dated 26.09.2024 issued in Reference No.ZD3309241795151 and quash the same.

PRAYER in W.P.No.636 of 2025: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari call for the records on the files of the 1st respondent herein in GSTIN: 33AKGPK3150P3ZZ/2019-20 dated 27.08.2024 and the connected order under Section 73 dated 27.08.2024 and the summary of the order in Form GST DRC-07 dated 27.08.2024 issued in Reference No.ZD330824232455F and quash the same.

PRAYER in W.P.No.641 of 2025: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari call for the records on the files of the respondent herein in GSTIN: 33AKGPK3150P3ZZ/2018-19 dated 03.04.2024 (wrongly mentioned as GSTN:33AJEPB7289H1Z7) and the connected order under section 73 dated 03.04.2024 and the summary of the order in Form GST DRC-07 dated 03.04.2024 issued in Reference No:ZD330424026064W and quash the same.

For Petitioner in all Wps. ... Mr.Jayaprathap ANR

For Respondent in all Wps. ... Mr.V.Prashanth Kiran, Government Advocate

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COMMON ORDER

The present Writ Petitions are filed challenging the order dated 26.09.2024 , 27.08.2024 and 03.04.2024 on the ground that the impugned orders proceed to levy tax on transport services rendered by the petitioners, who are Goods Transport Agents, overlooking the fact that Goods Transport Agency Services are liable on reverse charge basis in terms of Section 9(3) r/w Notification Nos.5/2017 and 13/2017, by the recipient of the services *inter alia* including Bharath Petroleum Corporation and Hindustan Petroleum Corporation Limited.

2.It is submitted that though the petitioners had filed their reply stating that the services rendered by them are liable only on reverse charge basis and it was further submitted that they are not liable as only the recipient is liable. However, the same was rejected and taxes have been levied on the petitioners.

3.It is the case of the petitioners that the impugned orders was the result of shifting the point of taxation from reverse charge to forward charge thus unsustainable. It is also submitted by the learned counsel for the petitioners that there are certificates which have now been issued by the service recipients viz.,Bharath Petroleum Corporation and Hindustan Petroleum Corporation,

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which would show that the taxes have been paid on the service received on RCM basis. It was thus submitted that levy of tax on the petitioner could result in taxes being levied in the hands of both the service provider as well as the recipients which is impermissible.

4.On this being pointed out, the learned counsel for the respondent would submit that they would redo the assessment.

5. In view of the submission made by the learned counsel for the respondent that they would redo the assessment, it is open to the petitioner to submit an additional reply along with supporting documentary evidence including the certificates which would be considered and orders be passed within a period of four weeks after affording the petitioner a reasonable opportunity of hearing and in accordance with law.

Accordingly, the writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Speaking (or) Non Speaking Order
Index : Yes/ No **28.01.2025**
Neutral Citation: Yes/No
sms

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To

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(also known as Commercial Tax Officer)
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Taxes office Complex,
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Chennai – 600 003.

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3.The Assistant Commissioner (ST),
Tondiarpet Assessment Circle,
Integrated Building for Commercial Taxes Dept.
No.32, Elephant Gate Bridge Road,
Chennai – 600 001.

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MOHAMMED SHAFFIQ, J.

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