**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated : 21.01.2025**

**Coram:**

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

**W.P.Nos.32404, 32405, 32408 & 32412 of 2022**
**and W.M.P.Nos.31807, 31808, 31811,**
**31812, 31813, 31814, 31821 & 31823 of 2022**

M/s.Jayaan Crusher
Legal Name: Ramasamy HUF
No.125/2, Panniampalli,
Chennimalai,
Madukattipalayam – 638 051,
Erode District.

...Petitioner in all W.Ps

Versus

1.The Commissioner of State Tax,
Ezhilagam,
Chepauk,
Chennai – 600 005.

2.The Assistant Commissioner (ST),
Chennimalai Assessment Circle,
Erode,
Erode District.

...Respondents in all W.Ps

**Prayer in W.P.No.32404 of 2022:**

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the impugned proceedings of the 2nd respondent made in GSTIN: 33AAJHR6524B1ZE/2017-18 dated 25.11.2022 quash the same.

**Prayer in W.P.No.32405 of 2022:**

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the impugned proceedings of the 2nd respondent made in GSTIN: 33AAJHR6524B1ZE/2019-20 dated 28.11.2022 quash the same.

**Prayer in W.P.No.32408 of 2022:**

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the impugned proceedings of the 2nd respondent made in GSTIN: 33AAJHR6524B1ZE/2020-21 dated 28.11.2022 quash the same.

**Prayer in W.P.No.32412 of 2022:**

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the impugned proceedings of the 2nd respondent made in GSTIN: 33AAJHR6524B1ZE/2021-22 dated 28.11.2022 quash the same.

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|---|---|---|
| For Petitioner in all W.Ps | : | Ms.R.Hemalatha<br>for Mr.S.Rajasekar |
| For Respondents in all W.Ps | : | Mr.V.Prashanth Kiran,<br>Government Advocate |

**COMMON ORDER**

In these writ petitions, the petitioner has challenged four separate Assessment Orders dated 25.11.2022 & 28.11.2022 issued by the 2nd respondent. Details of the impugned Assessment Orders are tabulated hereunder:

| Sl.No. | Writ Petition No. | Date & Reference No. of the impugned Assessment Order | Assessment Year |
|---|---|---|---|
| 1 | 32404/2022 | 25.11.2022 & GSTIN: 33AAJHR6524B1ZE/2017-18 | 2017-18 |
| 2 | 32405/2022 | 28.11.2022 & GSTIN: 33AAJHR6524B1ZE/2019-20 | 2019-20 |
| 3 | 32408/2022 | 28.11.2022 & GSTIN: 33AAJHR6524B1ZE/2020-21 | 2020-21 |
| 4 | 32412/2022 | 28.11.2022 & GSTIN: 33AAJHR6524B1ZE/2021-22 | 2021-22 |

2. By the impugned Assessment Orders, the 2nd respondent insisted the petitioner to pay GST on 'Royalty' or 'Seigniorage Fee' that is paid to the Department of Mines & Geology by the petitioner.

3. According to the petitioner, the Royalty or Seigniorage Fee itself is a tax on the mined minor minerals and hence, levying of tax under the

guise of GST in furtherance of the Seigniorage Fee paid by the petitioner is illegal and arbitrary.

4. In the affidavit filed in support of these writ petitions, it is stated that the Hon'ble Supreme Court as well as various High Courts have granted an order of interim stay on levy and collection of GST on Royalty or Seigniorage Fee. Hence, the petitioner has challenged the impugned Assessment Orders passed by the 2nd respondent before this Court.

5. The learned counsel for the petitioner and the learned Government Advocate for the respondents submitted in unison that the issue involved herein is no longer *res integra* and is squarely covered by the decision rendered by the Hon'ble Supreme Court in ***State of West Bengal Vs. Kesoram Industries*** *(2004) 10 SCC 201.*

6. The surviving issue in this writ petition pertains to the levy of penalty and interest on the tax due not paid by the petitioner. Though there is an alternate remedy available to the petitioner to challenge the impugned Assessment Orders before the Appellate Authority by filing an appeal under

Section 107 of the Tamil Nadu Goods and Services Tax Act, 2017, the time for filing such appeal has already expired.

7. In the above circumstances, these petitions are liable to be dismissed. Accordingly, these Writ Petitions are dismissed. However, liberty is granted to the petitioner to challenge the impugned Assessment Orders only in respect of levy of penalty and interest on tax due, before the Appellate Authority by way of filing an appeal under Section 107 of the Tamil Nadu Goods and Services Tax Act, 2017, within a period of 30 days from the date of receipt of a copy of this order. On filing of such appeal by the petitioner, the Appellate Authority shall dispose of the same, as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

**21.01.2025**

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Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Commissioner of State Tax,
Ezhilagam,
Chepauk, Chennai – 600 005.

2.The Assistant Commissioner (ST),
Chennimalai Assessment Circle,
Erode, Erode District.

**C.SARAVANAN, J.**

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W.P.Nos.32404, 32405,
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