IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.39932 and 39934 of 2024
and
W.M.P. Nos.43247, 43248, 43249 and 43250 of 2024

M/s.VSL Earth Movver,
Represented by its Proprietor P.Natarajan,
No.60-B, Nellikuppam Main Road,
Cuddalore-607 001. ... Petitioner in all W.Ps.

Vs.

1.The State Tax Officer (ST),
Cuddalore Town Assessment Circle,
Punjab National Bank Upstairs, 2nd Floor,
Bharathy Road, Cuddalore.

2.The Deputy State/ Commercial Tax Officer-2,
Cuddalore Town Assessment Circle,
Punjab National Bank Upstairs, 2nd Floor,
Bharathy Road, Cuddalore. ... Respondents in both W.Ps.

PRAYER in W.P.No.39932 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 2nd Respondent in his proceedings in GSTIN/33AITPN8569J1ZC/19-20 (Form GST DRC-07 – Reference No:ZD330824221304R) quash the order dated 24.08.2024 passed therein.

PRAYER in W.P.No.39934 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 2nd Respondent in his proceedings in GSTIN/33AITPN8569J1ZC/19-20 (Form GST DRC-07 – Reference No:ZD330824221670M) quash the order dated 24.08.2024 passed therein.

For Petitioner in both W.Ps.	:	Mr.P.V.Sudakar
For Respondents in both W.Ps.	:	Mr.C.Harsha Raj Additional Government Pleader

COMMON ORDER

These writ petitions are filed challenging the impugned orders dated 24.08.2024 for the period 2019-20 on the premise that there has been gross non-application of mind.

2. The petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period 2019-20, the petitioner filed its returns and paid the appropriate taxes. While so, during the 2nd week of November 2024, the petitioner was informed by the office of the second respondent that an order dated 24.08.2024 has been passed for 2019-20 and the same uploaded in the GST Portal. Upon verifying the GST Portal, it was found that there were three orders passed for the tax period 2019-20, one dated 02.08.2024 by the first

respondent herein and the other two dated 24.08.2024 by the second respondent. The first order dated 24.08.2024 was preceded by a show cause notice dated 01.12.2022. The second and third orders dated 24.08.2024 were preceded by show cause notices dated 19.09.2023 and 22.05.2024 respectively. The show cause notices and the orders have all been uploaded in the GST Portal under the Tab 'view additional notices/orders' and were not communicated to the petitioner by any other mode of service which was the reason why the petitioner could not respond to the show cause notices nor take steps to challenge the assessment orders. It is submitted that the petitioner had no knowledge of the issue of the show cause notices and passing of the assessment orders until such time the information was received from the office of the second respondent. Perusal of the orders reveal, vide the order dated 02.08.2024 the first respondent has arrived at mismatch in output tax liability in view of alleged difference between GSTR-1 and GSTR-3B and excess availment of ITC based on the difference between GSTR-3B and GSTR-2A. In the second order dated 24.08.2024, the second respondent has arrived at excess availment of ITC based on the difference between GSTR-3B and GSTR-2A which issue was already considered by the first respondent in the order dated 02.08.2024. However the difference arrived at is lesser compared to the first order dated 02.08.2024. By the third order dated 24.08.2024, the second respondent has arrived at excess availment of

ITC based on the difference between GSTR-3B and GSTR-2A and reversal of ITC on exempt supplies. But in the summary of order/DRC-07 issued for the third order, the demand has been restricted only to reversal of ITC on exempt supplies. Under the circumstances, the petitioner is challenging three orders dated 02.08.2024 in W.P.No.39930 of 2024 and orders dated 24.08.2024 and 24.08.2024 passed for the period 2019-20, before this Court.

4. The impugned orders dated 24.08.2024 is wrong and unsustainable in law inasmuch as insofar as the difference in ITC between the GSTR-3B and GSTR-2A, the second respondent failed to see that on the same issue the first respondent had already passed an order dated 02.08.2024. The difference between GSTR-3B and GSTR-2A under CGST and SGST under the impugned order is less compared to the earlier order dated 02.08.2024 passed by the first respondent. By the order(s), the second respondent has also concluded mismatch of ITC under IGST at Rs.9,02,944.36 and Rs.6,90,842/- respectively. However in the third order dated 24.08.2024 passed by the very same second respondent, the mismatch of ITC under IGST was arrived at Rs.6,90,842/- and under CGST and SGST was arrived at Rs.11,13,029/- respectively.

5. Apparently, there is duplication and multiple orders in respect of the same issues in view of the fact that more than one officer has adjudicated the matter.

6. On this being pointed out, the learned counsel for the Respondents would submit that the impugned order may be treated as show cause notice and the petitioner may submit their objections.

7. In view thereof, it is open to the petitioner to treat the impugned order as show cause notice and submit a representation for the matters to be adjudicated by a single officer to ensure that there is uniformity and certainty, such representation may be made before the appropriate authority, who in turn may assign all the three assessment proceedings to a single officer.

8. The writ petitions stand disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

10.01.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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To:
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Cuddalore Town Assessment Circle,
Punjab National Bank Upstairs, 2nd Floor,
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