BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)Nos.3491, 3492 and 3493 of 2025
and
W.M.P.(MD)Nos.2474, 2477, 2481, 2482, 2476 and 2478 of 2025

Tvl. Nanguneri Kanyakumari Tollway Private Limited,
Represented by its Authorized Signatory,
Abijit S Sathe,
Nanguneri Toll Plaza, Nh-44,
Nanguneri Post,
Nanguneri-Taluk,
Tirunelveli – 627 108. ... Petitioner in all the W.Ps.

-vs-

The State Tax Officer,
Nanguneri Assessment Circle,
Kalakad Road,
Nanguneri,
Tirunelveli – 627 108. ... Respondent in all the W.Ps.

PRAYER IN W.P.(MD)No.3491 of 2025: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the Impugned Assessment Order in GSTIN.33AAGCN7957C1ZE/2020-21, dated 07.11.2024, passed by the respondent and quash the same.

PRAYER IN W.P.(MD)No.3492 of 2025: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the Impugned Assessment Order in GSTIN.33AAGCN7957C1ZE/2021-22, dated 07.11.2024, passed by the respondent and quash the same.

PRAYER IN W.P.(MD)No.3493 of 2025: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the Impugned Assessment Order in GSTIN.33AAGCN7957C1ZE/2022-23, dated 07.11.2024, passed by the respondent and quash the same.

For Petitioner in all the W.Ps. : Mr.Raghavan Ramabadran

For Respondent in all the W.Ps. : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

These writ petitions are filed as against the assessment orders passed by the respondent herein for the years 2020-2021, 2021-2022 and 2022-2023.

2. The learned counsel for the petitioner submits that the impugned orders are without jurisdiction, as they have upheld the demand for GST on the service provided to users through access to roads, with toll charges, which is exempt under Entry No.23 of Notification No.12/2017-CT(R), dated 28.06.2017. Further, the impugned orders are illegal and violate the principles of natural justice, as they fail to take into account the clarification issued during the 22nd GST Council Meeting on 06.10.2017. In this meeting, the GST Council clarified that the toll is a payment made by road users to the concessionaires for road usage and not a payment to NHAI for construction services.

3. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondent submits that the impugned assessment orders have been passed after issuing show cause notices in DRC 01 to the petitioner on 20.07.2024 and therefore, there is no need to interfere with the impugned orders. He further submits that the petitioner is having an appeal remedy before the Deputy Commissioner (GST Appeals) (State Tax), Madurai, under Section 107 of the TNGST Act, 2017. However, without invoking the appeal remedy, the petitioner has straightaway approached this Court.

4. Recording the submission made by the learned Additional Government Pleader that the petitioner is having an appeal remedy before the Deputy Commissioner (GST Appeals) (State Tax), Madurai, under Section 107 of the

TNGST Act, 2017, these writ petitions are disposed of with liberty to the petitioner to approach the appellate authority and raise all the grounds raised in these writ petitions in the appeal. In the event, if any appeal is filed within a period of one month from the date of receipt of a copy of this order, the same shall be entertained by the appellate authority without insisting on the limitation and disposed of in accordance with law, after examining all the facts and circumstances of the case, within a period of two months thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No **07.02.2025**
Index : Yes / No
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To:-

The State Tax Officer,
Nanguneri Assessment Circle,
Kalakad Road,
Nanguneri,
Tirunelveli – 627 108.

VIVEK KUMAR SINGH, J.

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Common order in
W.P.(MD)Nos.3491, 3492 and 3493 of 2025

07.02.2025