



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) Nos.15876 to 15878 of 2024**

**and**

**W.M.P.(MD) Nos.13799, 13801 and 13815 of 2024**

Tvl.Gurusamy Shanmugaiah

... Petitioner in all W.Ps.,

/vs./

The Deputy State Tax Officer -1 (ST),  
Sankarankovil Assessment Circle,  
Commercial Tax Buildings,  
Sankarankovil

... Respondent in all W.Ps.,

**COMMON PRAYER:** Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in GSTIN:33CYRPS0272F1Z8/2017-18, 33CYRPS0272F1Z8/2018-19 and 33CYRPS0272F1Z8/2019-20 dated 8.12.2023, 26.06.2023 and 03.05.2024 respectively and to quash the same as illegal, arbitrary, wholly without jurisdiction and direct the respondent to issue notice to the petitioner then pass an assessment order afresh after affording an sufficient opportunity by following CBIC Circular NO.183/15/2022-GST



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(F.NO.CBIC-20001/2/2022 -GST), DATED 27.12.2022, within such time as may be directed by this Court.

For Petitioner  
in all W.Ps., : Mr.N.Sudalaimuthu

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 respective assessment orders passed for the assessment years 2017-18 to 2019-20.

3.By the impugned orders, the demands that were proposed in the notices that preceded the impugned orders have been confirmed. It is submitted that the petitioner has not replied to any of the notices that were issued to the petitioner that preceded the impugned orders.



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4.The only explanation that is forthcoming from the petitioner is that the petitioner was unaware of the notices that were issued to the petitioner, as these notices were uploaded in the GST common portal. It is submitted that for the same reason, the petitioner was also unaware of the impugned orders that were passed on the respective dates.

5.The learned counsel for the petitioner submits that the petitioner may be given an opportunity to explain the case, as the dispute only relates to the treatment of the transaction by the petitioner's supplies as Business to Consumer instead of Business to Business.

6.It is submitted that the petitioner is a dealer and is therefore entitled to input tax credit on the tax borne by the petitioner on the supplies made by the supplier. It is submitted that the petitioner has obtained a certificate from the Chartered Accountant to substantiate the same.

7.Although the learned Additional Government Pleader appearing for the respondent submits that these writ petitions are without merits, in view of the



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decision of the Hon'ble Supreme Court in *Assistant Commissioner (CT) LTU, Kakinada and others Vs. Glaxo Smith Kline Consumer Health Care Limited* reported in *2020 SCC Online SC 440* and the appellate remedy as far as the assessment orders for the assessment years 2017-18 to 2019-20 are concerned, is time barred, in view of the decision of the Hon'ble Supreme Court in *Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur* reported in *2008 (221) E.L.T.163 (S.C)*, I am of the view that to balance the interest of the parties, the impugned orders can be set aside subject to the petitioner depositing 25% of the disputed tax from the Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order for the respective assessment years.

8.The petitioner shall file a consolidated reply within the aforesaid period. The impugned order, which stands quashed, shall be treated as an addendum to the show cause notices issued to the petitioner. It is expected that the respondent shall pass a fresh order on merits and in accordance with law within a period of 2 months thereafter. Needless to state that the petitioner shall be heard before final orders are passed.



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9. These Writ Petitions stand allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No  
Internet : Yes / No  
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**16.07.2024**

To

The Deputy State Tax Officer -1 (ST),  
Sankarankovil Assessment Circle,  
Commercial Tax Buildings,  
Sankarankovil



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**C.SARAVANAN, J.**

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