



W.P.(MD) Nos.16214 & 16276 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) Nos.16214 & 16276 of 2024
and
W.M.P.(MD)Nos.14092 & 14144 of 2024**

W.P.(MD)No.16214 of 2024:

M/s.S.R.S.Constructions,

Represented by its Proprietor T.Suyambulingam.

... Petitioner

Vs.

1.The State Tax Officer (Data Analytics),
(Intelligence Wing), Virudhunagar,
Commercial Taxes Buildings, Virudhungar.

2.The State Tax Officer-1,
Adjudication Wing,
Commercial Tax Buildings, Reserve Lane,
Palayamkottai, Tirunelveli.

... Respondents

PRAYER: Writ Petition 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:33EWNPS2618F1ZC/2020-21 dated 23.02.2024 passed by the first respondent under Section 74 of TNGST Act, 2017 and to quash the same as cryptic, non-speaking, illegal, arbitrary, wholly without jurisdiction and

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WEB COPY direct the 2nd respondent to pass assessment order afresh after affording opportunity of being heard.

For petitioner : Mr.N.Sudalai Muthu

For respondents : Mr.J.K.Jayaselan
Government Advocate

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For petitioner : Mr.N.Sudalai Muthu

For respondents : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

By this common order, these two Writ Petitions are disposed of.

2. Heard learned counsel for the petitioner and learned Government Advocate for the respondents.

3. The petitioner is before this Court against the respective assessment orders both dated 23.02.2024 passed by the first respondent for the assessment years 2020-21 and 2021-22. The challenge in the impugned order is that the same individual namely, L.Kumaresan has passed the impugned orders for the respective assessment years.

4. It is submitted that the same Officer has issued the summary of the orders in GST DRC 07 for the respective assessment years and has signed in the capacity of Commercial Tax Officer and has also issued Section 74 notices for the

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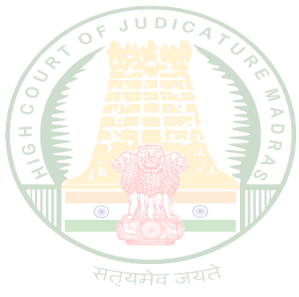
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respective assessment years as the Commercial Tax Officer. It is submitted that the impugned orders dated 23.02.2024 for the respective assessment years were issued by the same individual in the capacity as the State Tax Officer (Data Analytics) (Intelligence Wing), Virudhunagar.

5. The learned counsel for the petitioner in these Writ Petitions would submit that the impugned orders have been passed in a biased manner as the same Officer has assumed dual role both as the Commercial Tax Officer and the State Tax Officer (Data Analytics) (Intelligence Wing), Virudhunagar.

6. It is further submitted that there is a patent bias writ at large. That apart, it is submitted that the said Officer had already been transferred as early as 02.08.2023, but, has passed the impugned orders in dual capacity as mentioned above.

7. The learned Government Advocate for the respondents is unable to explain as to why the same officer has signed in two different capacity, one as the Commercial Tax Officer, Tirunelveli and another as the State Tax Officer, (Data



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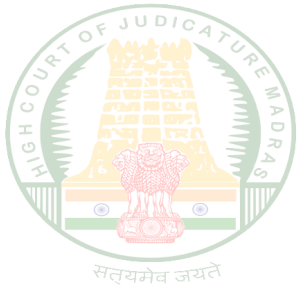
Analytics) (Intelligence Wing), Virudhunagar for the respective years. *Prima facie*, there is a discrepancy as the same officer is wearing two heads.

8. Since there is no proper explanation, the Court is inclined to set aside the impugned orders and remit the cases back to the second respondent to pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period two months. Needless to state, the petitioner shall be heard, before passing the orders. The petitioner shall co-operate with the second respondent. In case, the petitioner fails to co-operate with the second respondent, the respondents are at liberty to proceed against the petitioner based on the available materials on record.

These Writ Petitions are disposed of with above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

19.07.2024



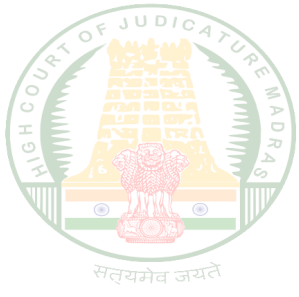
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C.SARAVANAN, J.

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