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W.P.No.27651 of 2021 and etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.27651, 27654 & 27657 of 2021

and

**W.M.P.Nos.29193, 29195, 29197, 29200,
29201, 29202, 29206 & 29207 of 2021**

(Through Video Conferencing)

- 1.Pushpam Reality,
SY No.112/1, Sevangappli, Post Hosur,
Krishnagiri District – 635109,
Represented by its Partner,
Abhiram. M. ... Petitioner in
W.P.No.27651/21
- 2.S.Chandraiah Contractor,
3rd Floor, AVS Tower,
Opp. Taluk Officer,
Hosur – Krishnagiri – 635109. ... Petitioner in
W.P.No.27654/21
- 3.Shree Ambica Saw Mill
Represented by its Proprietor
Chandulal. R,
Alur Road, Belathur Panchayat,
Bagalur – Krishnagiri – 635109. ... Petitioner in
W.P.No.27657/21

Vs.

- 1.State Tax Officer,



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Hosur (North) II Circle,
Hosur – 635109.

... 1st

Respondent in

all W.Ps.

2. The Manager,
Karnataka Bank Ltd.,
No.979, 1st Floor,
Rangabhoomi, 13th Cross,
19th Main Road,
Banashankari II Stage,
Bangalore – 560070.

... 2nd Respondent in
W.P.No.27651/21

3. The Manager,
Axis Bank,
Palaniappa Building,
Bye Pass Road, Opp. to Bus Stand,
Hosur – 635109.

... 2nd

Respondent in

W.P.No.27654/21

4. The Manager,
HDFC Bank, Hosur Branch,
No.42/2, Krishnagiri Bye Pass Road,
Hosur – 635109.

... 2nd

Respondent in

W.P.No.27657/21

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the first respondent in order dated 19.03.2021, 30.12.2020 & 10.03.2021 in GSTIN 33AAJFP8430G1Z9/2017-18, GSTIN 33AEJC0888D1ZT/2017-18 & GSTIN 33AMOPC4956F1Z2/2017-18 respectively and quash the same and further direct the first respondent to release the petitioner bank



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account with the respective second respondent bank.

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For Petitioner : Mr.Adithya Reddy
in all W.Ps.

For Respondents : Ms.Amirta Poonkodi Dinakaran
in all W.Ps. Government Advocate

COMMON ORDER

By this common order, all the three Writ Petitions are being disposed.

2. The petitioners have challenged the impugned assessment order dated 19.03.2021 in W.P.No.27651 of 2021 and the impugned assessment order dated 30.12.2020 in W.P.No.27654 of 2021 and the impugned assessment order dated 10.03.2021 in W.P.No.27657 of 2021. The petitioners have also challenged the impugned recovery proceedings issued consequent to the assessment orders.

3. The learned counsel for the petitioners submits that these impugned assessments orders have been passed either without proper service of Show Cause Notices or without giving adequate opportunity to



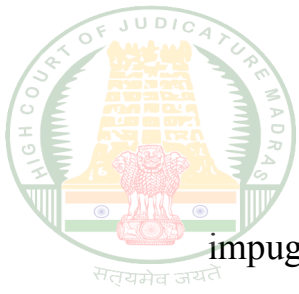
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reply to the Show Cause Notices. It is therefore submitted that the impugned orders have been passed in violation of principles of natural justice.

4. Opposing the prayer of the petitioners, the learned Government Advocate appearing for the respondents submits that notices were uploaded in the web portal of the State Government, i.e. tngst.cid.tn.gov.in.

5. The learned Government Advocate for the respondents submits that the notices and other orders are uploaded in the aforesaid portal and are auto populated in the GST web portal maintained by the Central Government and therefore, the petitioners cannot state that the Show Cause Notices have not been served.

6. The learned Government Advocate for the respondents further submits that once the notices are auto uploaded, information will be available in the dashboard of the assesseees and registrants and therefore, it not open for the petitioners to state that neither Show Cause Notice nor



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impugned order have been communicated to the petitioners.

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7. Alternatively, the learned Government Advocate appearing for the respondents submits that the impugned orders can be challenged before the appellate authority under Section 107 of the respective GST enactments and on this count also, this Writ Petitions are devoid of merits.

8. The learned Government Advocate for the respondents also drawn attention to Section 169 of the respective GST enactments. In terms of which, any one of the methods of service of notices is sufficient. In this connection, a reference was made to the decision of the Kerala High Court in **Softouch Health Care Private Ltd. Vs. The State Tax Officer, 1st Circle, Department of State GST and Others**, rendered in W.P. (C) No.15297 of 2020 on 29.09.2020 and in R.P.No.747 of 2020 in W.P. (C) No.15297 of 2020 on 12.11.2020. She also prays for dismissal of these Writ Petitions.

9. Heard the learned counsel for the petitioners and the learned



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Government Advocate for the respondents and perused the records.

WEB COPY 10. Section 169 of the Central Goods and Services Tax Act, 2017 and Section 169 of the Tamil Nadu Goods and Services Tax Act, 2017 are identical which reads as under:-

169. (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—

- (a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or
- (b) by registered post or speed post or courier with acknowledgment due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or
- (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
- (d) by making it available on the common portal; or



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- (e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or
- (f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

11. Though Section 169 of the respective enactments allows the authorities to communicate any decision, order, summons, notice or other communication under this Act by any one of the methods specified, unless the proper conformation that notices and impugned orders which were uploaded in the web portal of the State Government in



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ngst.cid.tn.gov.in are auto populated, it cannot be said that there is a sufficient compliances of the aforesaid Section.

12. GST Act was implemented in the year 2017 with effect from 01.07.2017. The web portal maintained by GST has faced problems on several occasions and steps were taken for correcting the technical glitches. Even as on date, there are problems arising out of inter-communication between the State GST and Central GST and the web portal which has to be resolved.

13. The respondents can therefore continue the service of notice through registered post or speed post or courier with acknowledgment to the petitioners at their last known place of business or residence and upload the same in the web portal. Till all problems are resolved on the technical side, the authority may simultaneously serve the notice of assessment and communications under the Act and Rules both through registered post or speed post or courier with acknowledgment as is contemplated Section 169(1)(b) of the Act and through web portal.



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WEB COPY 14. Once all technical problems are resolved, the practice of sending physical copy through registered post or speed post or courier with acknowledgment may be dispensed with.

15. Considering the same, I am inclined to set aside the impugned assessment orders and remit the cases back to the respondents to pass speaking on merits and in accordance with law.

16. The petitioners are directed to file a reply to the respective Show Cause Notices which have been served on the learned counsel for the petitioners. The impugned orders which stand quashed by this order shall be treated as supplementary Show Cause Notices.

17. Since the dispute pertains to the Assessment Year 2017-2018, the respondents shall pass appropriate orders within a period of forty five (45) days from the date of receipt of a copy of this order.



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WEB COPY 18. Accordingly, these Writ Petitions stand disposed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

04.02.2022

Index : Yes/No
Internet : Yes/No
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To

1.State Tax Officer,
Hosur (North) II Circle, Hosur – 635109.

2.The Manager,
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No.979, 1st Floor, Rangabhoomi, 13th Cross,
19th Main Road, Banashankari II Stage,
Bangalore – 560070.

3.The Manager,
Axis Bank, Palaniappa Building,
Bye Pass Road, Opp. to Bus Stand,
Hosur – 635109.

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C.SARAVANAN,J.

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