

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM:

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

Writ Petition No.5501 of 2019
& WMP No.6251 of 2019

M/s. Jayachandran Alloys (P) Ltd.,
 Rep. by its Managing Director, Mr.C.Pradeep,
 Plot No.P26 5th Cross, SPICOT Industrial Growth Centre,
 Perundurai Village, Erode District,
 Tamil Nadu ... Petitioner

vs.

- 1 The Superintendent of GST and Central Excise,
 Head Quarters Preventive Unit,
 Office of the Commissioner of GST and
 Central Excise, No.1 Foulks Compound Anai Medu
 Salem – 636001
- 2 The Deputy Commissioner of GST and Central Excise
 Head Quarters Preventive Unit,
 Office of the Commissioner of GST and Central Excise,
 No.1 Foulks Compound, Anai Medu, Salem – 6
- 3 The Additional Commissioner of GST and Central Excise,
 Office of the Commissioner of GST and Central Excise,
 No.1 Foulks Compound, Anai Medu, Salem 636 001
- 4 The Commissioner of GST and Central Excise,
 Office of the Commissioner of GST and
 Central Excise, No.1 Foulks Compound, Anai Medu,
 Salem - 636001 ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India
 praying for the issuance of a Writ of Mandamus directing the respondents

to provide all the documents and records seized from the petitioner's premises during the inspection conducted on 15.10.2018, 16.10.2018 and 17.11.2018 and including the statements recorded from the Petitioner's staff and its Managing Director and also the statement recorded from the Managing Director of the Petitioner on 21.02.2019 and thereafter grant opportunity to the petitioner and pass assessment order in accordance with law.

For Petitioner : Mr. P.S.Raman, Sr. Counsel, for,
Mr. P.Rajkumar
For Respondents : Ms. Aparna Nandakumar,
Sr. Standing Counsel

ORDER

The petitioner is an Assessee before the respondent authorities, in terms of the provisions of the Central Goods and Services Tax Act, 2017, (in short 'CGST Act'). The CGST Act was implemented with effect from 01.07.2017 and provides for the assessment of turnover from sales and services as enumerated therein. Regular monthly returns have been filed by the petitioner and this is not disputed.

2. While this was so, there appears to have been an investigation initiated by the respondents in the premises of the petitioner, commencing from 15.10.2018 and continuing on various dates thereafter. Seizures of voluminous documents and records have been effected. The petitioner has also been called upon to furnish various records and has done so, under letters dated 17.11.2018 and

3. The list of documents submitted on 17.11.2018 is set out below:-

'JAYACHANDRAN ALLOYS PVT LTD
Following Original / Documents submitted to GST HPU Officers dt:
17/11/2018

S.No.	Name of the Register	Reports Date	
		<i>From</i>	<i>To</i>
1	Despatch Inspection Report	3/14/2018	4/21/2018
2	Lead Counting Note	9/25/2018	11/1/2018
3	Daily stock book	9/6/2018	11/17/2018
4	Vehicle Follow up chart	7/5/2018	9/20/2018
5	Daily stock book	5/30/2018	9/5/2018
6	Daily stock book	11/1/2017	2/18/2018
7	Despatch Inspection Report	5/31/2018	6/26/2018
8	Despatch Inspection Report	2/6/2018	3/13/2018
9	Battery Dimandle scrap Inward	2/11/2018	11/16/2018
10	Lead Outward Note	7/11/2018	11/17/2018
11	Lead Outward Note (security)	3/28/2018	11/17/2018
12	Lead Outward Note	11/1/2018	11/17/2018
13	JCA Ganeshapuram to JCG Perundhurai DC Material Register	10/12/2018	11/17/2018
14	Store Inward Note	7/1/2018	11/17/2018
15	Loading Log sheet	7/11/2017	8/21/2017
16	Daily stock book	4/25/2017	8/21/2017
17	Daily stock book	8/3/2017	7/9/2017
18	Lead Loading Log sheet	10/10/2017	12/26/2017
19	Lead Loading Log sheet	7/13/2018	9/5/2018
20	Export Inspection Report	3/23/2017	10/31/2017
21	Export Inspection Report	6/28/2018	11/11/2018
22	Vehicle Follow up chart	7/18/2017	5/2/2018
23	1 Box File		

4. In letter dated 22.11.2018 addressed by the petitioner to the first respondent, acknowledged by the first respondent on the same date, the details of other documents and records supplied by the petitioner are mentioned, as follows:

*'The total Nos. of documents submitted is 61 Nos. and the hard copy given to you is 56 Nos.
The total No. of pages given to you is 2935
The total No. of registers submitted is 34 Nos.'*

5. Statements have been recorded from various persons including the Managing Director of the petitioner company on various dates in the course of proceedings as below:-

S.No.	Name of the Staff	Designation	Hearing Date
1	Mr.V.Saravanan	Billing Staff / Authorised Signatory	6.12.2018 & 7.12.2018
2	Mr.V.Vinothkumar	Stores Supervisor	6.12.2018 & 7.12.2018
3	Mr.D.Rathinamoorthi	Stores Supervisor	7.12.2018
4	Mr.S.Viveganandhan	Production Manager	17.12.2018
5	Mr.M.Mahendhiran	Despatch Supervisor	18.12.2018
6	Mr.S.Sivagurusamy	General Manager	19.12.2018
7	Mr.D.Jegadeesh	Finance Manager	26.12.2018
8	Sri.C.Pradeep	Managing Director	27.12.2018, 03.01.2019 & 04.01.2019

6. While this is so, and the process of investigation is on-going, the petitioner sought copies of the statements recorded from it as

well other materials seized, with no response forthcoming from the department. Hence this writ petition, praying for a mandamus directing the respondents to provide copies of the documents and records seized during the inspection as well as copies of statements recorded by the inspecting authorities, to grant opportunity to the petitioner and to pass an order of assessment in accordance with law.

7. A Miscellaneous Petition has been filed seeking the grant of an interim injunction restraining the respondents from proceeding cocercively against the petitioner and their staff including arresting them by invoking the provisions of Section 69 of the Act, pending disposal of the writ petition.

8. A counter affidavit has been filed by the respondents attempting to answer the main as well as the interim prayer.

9. The following issues arise, in my view, for resolution:-

1. Whether the petitioner is entitled to a mandamus as prayed for in regard to supply of the documents and statements sought for by it in the light of the provisions of the Act?

2. Whether the interim protection sought for to prevent the respondents from invoking the powers under Section 69 of the Act read with Section 132 thereof in respect of the petitioner is liable to be granted?

3. Whether the petitioner's request for a direction to the respondents to complete adjudication and make an

assessment after following the due process of law is liable to be accepted?

10. The Central Goods and Service Tax Act, 2017, is a virgin enactment, born on 01.07.2017. The scheme of the Act is however not so different from the Indirect Tax Statutes that it has subsumed, the provisions of which it integrates, to provide a comprehensive and single assessment for turnover from the sale of goods and provisions of services.

11. Simply put, the scheme calls for regular returns to be filed by a dealer in terms of section 39 of the Act. These returns constitute a self-assessment by the Assessee under Section 59 of the CGST Act in regard to its turnover. The returns may either be accepted by the Assessing Authority in terms of Section 60 or if the officer is of the view that further verification and scrutiny is required, notice may be issued under Section 61 (1) of the Act, calling upon the Assessee to appear and make its submissions in support of the returns. If the explanations of the assessee are found acceptable, the assessee shall be informed accordingly in terms of Section 61 (2) and no further action shall be taken in that regard. In the event that the explanation is not satisfactory, the Assessing Authority is empowered to pass an order of assessment to the best of his/her judgment, after scrutiny and verification of the available materials on record in terms of Section 61 (3) of the Act.

12. An assessment under Section 73 of the CGST Act, in circumstances where a determination of tax that is either not paid, short paid, erroneously refunded or Input Tax Credit that has been wrongly availed or utilized, is to be completed within three years. In cases where the Assessing Authority believes that there has been under-assessment by virtue of fraud, wilful mis-statement or suppression of facts, a period of five years is provided in terms of Section 74 (10) of the CGST Act.

13. Section 67 of the CGST Act provides for the power of inspection, search and seizure, and has been invoked in the present case.

14. It is the petitioners' case that the proceedings for inspection in the present case have resulted in untold harassment. The officials of the Department have intimidated the petitioner, its Managing Director and staff. Statements recorded as well as the materials seized have not been furnished to the petitioner despite repeated requests, thus constraining the petitioner to approach this Court for the same.

15. The petitioner has also made various submissions with regard to the merits of the additions that have been proposed in the course of the proceedings. I consciously refrain from adverting to the same in detail since this Court is not concerned with the merits of the proposed assessment but only the procedure that is adopted by the respondents to frame such assessment. As regards the procedure itself, the petitioner

claims that there has been no proper compliance with the requirements of the statute. The Managing Director of the petitioner was threatened that he would be arrested in the light of the provisions of Section 69 of the CGST Act and he was coerced into signing statements, including one dated 21.02.2019, admitting various liabilities and providing for a schedule of payments to the Department.

16. The anticipated demand as per the statement recorded is of a sum of Rs.18,99,50,468/-, and the petitioner has undertaken to remit Rs.5,00,00,000/- on or before 28.02.2019 and the balance of Rs.13,99,50,468/- before the end of March 2019. The said statement has been retracted the very next day vide letter dated 22.02.2019 sent by registered post and e-mail. The petitioner relies on various Circulars issued under the erstwhile service tax regime to state that the powers of arrest and prosecution would arise only if the Department is in possession of evidence to prove that the Assessee had indulged in fraud or had intended to defraud the Revenue. The Circulars address specifically habitual offenders whereas in the present case the petitioner is a sterling assessee that has made substantial payments of taxes over the years.

17. The petitioner cites the decision of the Division Bench of the Delhi High Court in the case of *Make My Trip (India) Pvt. Ltd. V. Union of India & Ors* (W.P.(C) 525/2016 & CM 2153/2016) dated 01.09.2016 that

has been confirmed by the Supreme Court in Civil Appeal No.8080/2018, dated 23.01.2019, in support of its arguments.

18. A counter has been filed by the Department. On merits, the Department states that the petitioner has availed Input Tax Credit substantially in excess of what it is entitled to, of an extent of Rs.18.99 crores. According to the Department, incriminating records and evidences have been found in the course of the investigation based on which the following additions are liable to be made on the basis of the supporting evidences stipulated alongside:

(i) Rs.6.75 crores - On the basis of 132 bogus invoices supported by 132 false goods receipt note and false e-way baill wrongfully generated.

(ii) Rs.5.40 crores - ITC wrongfully claimed on reverse charge admitted in GST 3B return filed for April 2018.

(iii) Rs.3.72 crores - difference in stock, sales and production supported by stock inventory and mahazar prepared during stock inspection.

(iv) Rs.3.74 crores - difference in shortage and finished goods under job work.

19. The counter also refers to various explanations that have been offered at the time of inspection by the petitioner as well as the averments contained in the affidavit filed in support of the writ petition

<http://www.judis.nic.in> and proceeds to analyse the statements and averments. The Department

states that the provisions of Section 16 (1) that stipulate the eligibility and conditions for availing ITC have not been complied with in the present case since movement and delivery and remittance of tax in regard to the goods / services has not been established.

20. The GST regime requires the Assessee to establish movement of goods in addition to documentation establishing sales and purchase transactions and in the present case, there is no evidence to establish the movement of goods. Thus, the Department is categorical that the petitioner is a defaulter. Various details have been found in the premises in the course of investigation in support of the aforesaid factual position. The Department accepts that the investigation is on and no assessment has been framed. However substantial reliance is placed on statement dated 21.02.2019 wherein various lapses on the part of the petitioner have been tabulated and the petitioner has signed the same conceding to the lapses and agreeing to pay the tax arising therefrom amounting to a sum of Rs.18,99,50,468/-. The Department also refers to the conduct of the Assessee in avoiding summons and in not co-operating with the proceedings.

21. As regards the allegation that the Managing Director had been coerced into signing statement dated 21.02.2019 under threat of arrest, the counter states that '*they had only pointed out the statutory provision (section 132 of the Act) as it exists*'. The respondents reiterate that the

petitioner has indulged in Bill Trading activity which is an offence under Section 132 of the CGST Act. According to them Section 132 (i) (c) read with Section 132 (i) (b) of the Act provides that where the person has availed Input Tax Credit using Invoices/Bill without actually supplying such goods or services, he/it has committed a punishable offence. Such punishment, where the benefit wrongly availed exceeds rupees five hundred lakhs, is imprisonment which may extend to five years with fine. It is on the strength of the aforesaid conclusion, on merits, that the Department accepts in counter as well as orally before me that the provisions of Section 132 of the CGST Act were only '*pointed out*' to the petitioner and there was no coercion at all!

22. Reliance is placed on the judgment of the Supreme Court in the case of *Radheshyam Kejriwal v. State of West Bengal and another*, (266 ELT 294) that, according to the Department, settles the position that proceedings for prosecution can be launched simultaneous with assessment.

23. The Department also relies on a decision of a learned Single Judge of this Court and one each of the Rajasthan and Bombay High Courts dismissing applications seeking Anticipatory Bail filed by the petitioners therein, who apprehended arrest during investigation conducted by the GST Department. The petitioner, for its part, relies on

a decision of a learned Single Judge of the Karnataka High Court granting

anticipatory bail upon request by an assessee who was alleged to have indulged in bill trading activities. The aforesaid decisions have been rendered by various Benches in the background of applications filed by assessees for anticipatory bail in the light of allegations of bill trading activities and threats of arrest, similar to the present case.

24. As regards the request to supply copies of documents, the respondents rely on the provisions of Section 67 (5) of the CGST Act, extracted earlier. According to them, a person from whose custody documents have been seized shall be entitled to receive copies thereof or take extracts only in cases where, in the opinion of the proper officer such supply of copies will not prejudicially affect the on-going investigation.

25. Ms.Aparna states that such prejudice as above will be caused in the present case. It is however relevant to state that this argument is advanced only orally and does not figure in the counter.

26. Heard the detailed submissions of Mr.P.S.Raman, learned senior counsel, for Mr.Rajkumar, learned counsel for the petitioner and Ms.Aparna Nandakumar, learned Senior Standing counsel, assisted by the officials of the Department, for the respondents.

27. The Act provides for an assessment to be made after notice to be issued to the assessee. In the present case, the petitioner/assessee has been filing monthly returns regularly. This is not disputed. However,

the Department apprehended that the petitioner was engaging in bill trading activities and launched an investigation in the premises to verify the business activities of the petitioner and its compliance with the provisions of the Act. This investigation is in terms of section 67 of the Act, extracted below:-

'67. Power of inspection, search and seizure.- (1) Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that--

(a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or

(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act, he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorized by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

(3) The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.

(4) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of

the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.

(5) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.

(6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.

(7) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.

(8) The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under subsection (2), be disposed of by the proper officer in such manner as may be prescribed.

(9) Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorised by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.

(10) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.

(11) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

(12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.'

28. In the course of the investigation, the respondents state that there was substantial evidence to establish their suspicions regarding the bill trading activities carried on by the petitioner. Various documents were seized. The petitioner also furnished documents as called for by the department. Though the department alleges that the petitioner did not co-operate with the investigation and did not attend hearings in response to summons issued, the tabulation of the summons issued and attendance details of the petitioner indicate otherwise. Such details, as per the counter filed by the Department, are extracted below:

'S. NO	NAME OF THE PERSON SUMMONED S/SHRI	DESIGNATION	SUMMON DATE	STATUS
1	V.SARAVANAN	BILLING IN-CHARGE	06.12.2018	APPEARED
2	V.VINOTH KUMAR	BILLING IN-CHARGE	06.12.2018	APPEARED
3	S.SIVAGURUSAMY	GENERAL MANAGER	06.12.2018	APPEARED
4	T.RETTINAMOORTHY	STORES SUPERVISOR	07.12.2018	APPEARED ON CALL
5	D.JEGADEESH	FINANCE MANAGER	07.12.2018	APPEARED
6	C.PRADEEP	MANAGING DIRECTOR	07.12.2018	NOT APPEARED
7	VIVEGANANDAN S	PRODUCTION MANAGER	17.12.2018	APPEARED
8	MAHENTHIRAN M	DESPATCH SUPERVISOR	18.12.2018	APPEARED
9	S.SIVAGURUSAMY	GENERAL MANAGER	19.12.2018	APPEARED
10	D. JAGADESH	FINANCE MANAGER	20.12.2018	APPEARED
11	C.PRADEEP	MANAGING DIRECTOR	21.12.2018	APPEARED AND C PRADEEP, MD

S. NO	NAME OF THE PERSON SUMMONED S/SHRI	DESIGNATION	SUMMON DATE	STATUS
				REQUESTED TO POSTPONE ON 27.12.18
12	D.JEGADEESH	FINANCE MANAGER	26.12.2018	APPEARED
13	C.PRADEEP	MANAGING DIRECTOR	27.12.2018	APPEARED
14	C.PRADEEP	MANAGING DIRECTOR	28.12.2018	C PRADEEP, MD REQUESTED TO POSTPONE ON 03.01.19
15	C.PRADEEP	MANAGING DIRECTOR	03 & 04.01.2019	APPEARED AND C PRADEEP, MD REQUESTED TO POSTPONE ON 09.01.2019
16	C.PRADEEP	MANAGING DIRECTOR	09.01.2019	APPEARED AND C PRADEEP, MD REQUESTED TO POSTPONE ON 10.01.19
17	C.PRADEEP	MANAGING DIRECTOR	10.01.2019	APPEARED
18	C.PRADEEP	MANAGING DIRECTOR	17.01.2019	NOT APPEARED AND C.PRADEEP, MD SENT LETTER AND REQUESTED TO POSTPONE FOR 15 DAYS
19	C.PRADEEP	MANAGING DIRECTOR	30.01.2019	C Pradeep requested

S. NO	NAME OF THE PERSON SUMMONED S/SHRI	DESIGNATION	SUMMON DATE	STATUS
				for adjournment on 01.02.2019
20	C.PRADEEP	MANAGING DIRECTOR	07.02.2019	C PRADEEP, MD NOT APPEARED ON BEHALF OF HIM HE AUTHORISED JAGADEESH, FM TO APPEAR. FM APPEARED
21	C.PRADEEP	MANAGING DIRECTOR	21.02.2019	APPEARED and ADMITTED TO PAY THE LIABILITY OF Rs.18.99 Crores

29. Thus, on an appreciation of the details in the departmental counter, the allegation regarding lack of co-operation and response on the part of the petitioner appears contrary to fact.

30. As part of the investigation, the department has recorded statements, copies of which have been sought for by the petitioner. Pursuant to a direction issued by this court on 08.03.2019 to furnish the documents and statements recorded, the petitioner confirms that some have been so provided, but not all. Ms.Nandakumar relies on the provisions of Section 67(5) extracted at paragraph 27 of this order. A perusal of the provision makes it clear that the statute entitles the

Department to refrain from handing over copies of documents seized where it believes that such furnishing may be prejudicial to its interest. However, there is no such averment in the counter in regard to the documents sought for by the petitioner. The main prayer of the petitioner is for furnishing of copies of documents and records seized from its premises on 15.10.2018, 16.10.2018 & 17.10.2018. Thus, if the Department was of the view that this prayer was not liable to be granted for reasons that the documents were sensitive or such production would prejudice its interests, it ought to have said so in counter. In the absence of any such averment I must only conclude that there is no such apprehension in the mind of the Department and the prayer of the petitioner is thus, liable to be accepted. Copies of the documents sought will be furnished within a period of two (2) weeks from the date of receipt of a copy of this order upon remittance of copying charges. As far as statements are concerned, there being no condition imposed/ restriction placed in statute, copies of the same will be furnished upon remittance of copying charges within two(2) weeks from date of receipt of a copy of this order.

Issue (i) is answered in favour of the petitioner.

31. The provisions of Section 132 of the CGST Act are relevant to determine question (ii) framed above and are extracted hereunder:-

(1) Whoever commits any of the following offences, namely: —

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or rules made thereunder, with the intention to evade tax;

(b) issues any any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(c) avails input tax credit using such invoice or bill referred to in clause (b);

(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

(f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;

(g) obstructs or prevents any officer in the discharge of his duties under this Act;

(h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(j) tampers with or destroys any material evidence or documents;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section, shall be punishable--

(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

(3) The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be noncognizable and bailable.

(5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of subsection (1) and punishable under clause (i) of that sub-section shall be cognizable and nonbailable.

(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Explanation. — For the purposes of this section, the term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act..'

32. Statement dated 21.02.2019 recorded from the Managing

Director of the petitioner company reads thus:

'STATEMENT OF SHRI.C.PRADEEP, S/o. P.CHANDRASEKARAN, AGED 36 YEARS, MANAGING DIRECTOR OF M/s.JAYACHANDRAN ALLOYS PVT LTD. (GSTIN 33AABCJ8003C1Z8) No.18, RANGASAMY ROAD, RS PURAM, COIMBATORE - 641 002 HAVING UNIT-1 AT GANESHAPURAM, UNIT - II AT PERUNDURAI SIPCOT WAREHOUSE AT KAREGOUNDANPALAYAM. GIVEN BEFORE THE SUPERINTENDENT OF GST & CENTRAL EXCISE, HEADQUARTERS PREVENTIVE UNIT, SALEM AT OFFICE OF THE COMMISSIONER OF GST & C.EX, NO.1, FOULKS COMPOUND, ANAI MEDU, SALEM 636 001 ON 21-02-2019 AT 11.00 HRS UNDER SECTION 70 OF CGST ACT 2017.

I have made myself present before the GST Officer at the above Office address on being summoned by them and I am giving this statement before him in the form of Questions & Answers. As I have given my basic details I don't repeat the same now in previous statements. I am ready to offer my statement in the form of Questions & Answers as did earlier. The GST Officers have explained to me the provisions of Section 70 of CGST Act 2017 which I have understood fully. The officers also showed to me the Section 193 and 228 of the IPC as per which I understood that I have to give true and correct statement otherwise punishable under the law.

Q1: From the previous statements given by you the following are points and GST liability on those points are summarised below:

Sl. No.	Issue Involved	GST Liability
1	As per Section 16 (2) of CGST Act, 2017, no input tax credit can be availed when there is no movement of Goods. It is seen that without movement of Finished Goods from M/s. EGMI, Mangalore to M/s. JCA Perundurai pertaining to 132 Invoices raised by M/s. EGMI and M/s JCA has been availed by you	Rs.6,82,52,389/-
2	M/s. JCA has produced and supplied the finished goods without invoice and without payment of GST, difference between the production of finished goods and as per the Sales register works to Rs.20,85,75,840/- @ Rs.160/-	Rs.3,75,43,651/-
3	M/s. JCA had taken Input Tax Credit to the tune of Rs.2,59,28,504/- under Reverse Charge Method (RCM) without payment of GST under RCM as it is seen from GSTR 3B, April-2018 return. To that extent they are liable to pay the GST of Rs.2,59,28,504/-. Further, it is found that they have utilized the wrongly taken ITC of Rs.2,59,28,504/- for their regular payment of GST.	Rs.5,18,57,008/-
4	There is a difference between the agreed quantity of raw material to be supplied by M/s. EGMI, Mangalore, and the quantity of raw material used at M/s.JCA as confirmed by the Managing Director of M/s. JCA in his statement works out to	Rs.3,22,97,420/-

	Rs.17,94,30,110/-	
	Total liability	Rs.18,99,50,468/-

When you are going to pay the GST liability of Rs.18,99,50,468/-?

I admit unconditionally that I am liable to pay a sum of Rupees 18,99,50,468/- (Eighteen crores ninety nine lakhs fifty thousand four hundred and sixty eight) an amount approximately equal to the GST evaded by my company on my instruction. I am willing to pay the amount along with interest. I shall pay Rs.5 crore before 28th February 2019 and the remaining amount before March 31st 2019. I accept that I have past avoided my appearance before department on 7.2.2019 due to my son naming ceremony. I had sent by FM to represent on my behalf before the department even though I was aware that no one except me know the full details of my company. I fully accept all the liabilities along with interest and assure that I shall pay the same as above.

Sd/-... 21/2/2019

C.PRADEEP

MANAGING DIRECTOR

M/S. JAYACHANDRAN ALLOYS

Sd/-... 21/2/2019

C.PRADEEP

MANAGING DIRECTOR

M/S. JAYACHANDRAN ALLOYS

//BEFORE ME//

Sd/-.. 21/2/19

(S.THULIPBASIS)

SUPDT (HPU)'

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33. The GST enactment subsumes various enactments including the Central Excise Act, the Finance Act providing for the levy of Service Tax and State Value Added Tax Acts. Thus the interpretation given to the provisions of the aforesaid statutes would equally govern the working of the present statute (GST) as well. No doubt, the interests of the revenue

are paramount and have to be protected, but the actions of the Revenue Department draw power only from a wholistic interpretation of the statutory provisions. Any excess in this regard would vitiate the legitimacy of the exercise.

34. The Delhi High Court, in the case of *Make My Trip (India)* (supra) has considered the powers of the Directorate General of Central Excise Intelligence (DGCEI) for arrest, investigation and assessment in the light of service tax levy under the Finance Act, 1994. The Bench, after consideration of the judgment of the Supreme Court in *Radheshyam Kejriwal* (supra) relied upon by the revenue before me summarises its conclusions as follows:

'116. To summarise the conclusions in this judgment:

(i) The scheme of the provisions of the [Finance Act](#) 1994 (FA), do not permit the DGCEI or for that matter the Service Tax Department (ST Department) to by-pass the procedure as set out in [Section 73A](#)(3) and (4) of the FA before going ahead with the arrest of a person under Sections 90 and 91 of the FA. The power of arrest is to be used with great circumspection and not casually. It is not to be straightway presumed by the DGCEI, without following the procedure under [Section 73A](#) (3) and (4) of the FA, that a person has collected service tax and retained such amount without depositing it to the credit of the Central Government.

(ii) Where an assessee has been regularly filing service tax returns which have been accepted by the ST Department or which in any event have been examined by it, as in the case of the two Petitioners, without commencement of the process of adjudication of penalty under Section 83 A of the FA, another agency like the DGCEI cannot without an SCN or enquiry straightway go ahead to make an arrest merely on the suspicion of evasion of service tax or failure to deposit service tax that has been collected. Section 83 A of the FA which provides for adjudication of penalty provision mandates that there must be in the first place a determination that a person is "liable to a penalty", which cannot

happen till there is in the first place a determination in terms of [Section 72](#) or 73 or 73 A of the FA.

(iii) For a Central Excise officer or an officer of the DGCEI duly empowered and authorised in that behalf to be satisfied that a person has committed an offence under [Section 89](#) (1) (d) of the FA, it would require an enquiry to be conducted by giving an opportunity to the person sought to be arrested to explain the materials and circumstances gathered against such person, which according to the officer points to the commission of an offence. Specific to [Section 89](#) (1) (d) of the FA, it has to be determined with some degree of certainty that a person has collected service tax but has failed to pay the amount so collected to the Central Government beyond the period of six months from the date on which such payment is due and further that the amount exceeds Rs. 50 lakhs (now enhanced to Rs. 1 crore).

(iv) A possible exception could be where a person is shown to be a habitual evader of service tax. Such person would have to be one who has not filed a service tax return for a continuous length of time, who has a history of repeated defaults for which there have been fines, penalties imposed and prosecutions launched etc. That history can be gleaned only from past records of the ST Department. In such instances, it might be possible to justify resorting to the coercive provisions straightaway, but then the notes on file must offer a convincing justification for resorting to that extreme measure.

(v) The decision to arrest a person must not be taken on whimsical grounds; it must be based on 'credible material'. The constitutional safeguards laid out in D K. Basu's case (supra) in the context of the powers of police officers under the Cr PC and of officers of central excise, customs and enforcement directorates, are applicable to the exercise of powers under the FA in equal measure. An officer whether of the Central Excise department or another agency like the DGCEI, authorised to exercise powers under the CE Act and/or the FA will have to be conscious of the constitutional limitations on the exercise of such power.

(vi) In the case of MMT, without even an SCN being issued and without there being any determination of the amount of service tax arrears, the resort to the extreme coercive measure of arrest followed by the detention of Mr. Pallai was impermissible in law.

(vii) In terms of CBEC's own procedures, for the launch of prosecution there has to be a determination that a person is a habitual offender. There is no such determination in any of these cases. There cannot be a habitual offender if there is no discussion by the DGCEI with the ST Department regarding the history of such Assessee. Assuming that, for whatever reasons, if the DGCEI does not talk to ST Department, certainly it needs to

access the service tax record of such Assessee. Without even requisitioning that record, it could not have been possible for the DGCEI to arrive at a reasonable conclusion whether there was a deliberate attempt of evading payment of service tax. In the case of MMT, the decision to go in for the extreme step of arrest without issuing an SCN under [Section 73](#) or 73A (3) of the FA, appears to be totally unwarranted.

(viii) For the exercise of powers of search under Section 82 of the FA, (i) an opinion has to be formed by the Joint Commissioner or Additional Commissioner or other officers notified by the Board that -any documents or books or things? which are useful for or relevant for any proceedings under this Chapter are secreted in any place, and (ii) the note preceding the search of a premises has to specify the above requirement of the law. The search of the premises of the two Petitioners is in clear violation of the mandate of Section 82 of the FA. It is unconstitutional and legally unsustainable.

(ix) The Court is unable to accept that payment by the two Petitioners of alleged service tax arrears was voluntary. Consequently, the amount that was paid by the Petitioners as a result of the search of their premises by the DGCEI, without an adjudication much less an SCN, is required to be returned to them forthwith.

(x) It was imperative for the DGCEI to first check whether the entity whose employees are sought to be arrested has regularly been filing service tax returns or is a habitual offender in that regard. It is only after checking the entire records and seeking clarification where necessary, that the investigating agency can possibly come to a conclusion that [Section 89](#) (1) (d) is attracted. None of the above safeguards were observed in the present case. The DGCEI acted with undue haste and in a reckless manner.

(xi) Liberty is granted to the officials of MMT and IBIBO to institute appropriate proceedings in accordance with law against the officers of the DGCEI in which the supplementary affidavits filed in these proceedings and the replies thereto can be relied on. This holds good for the officials of the DGCEI as well when called upon to defend those proceedings in accordance with law.

(xii) The Court cannot decline to exercise its jurisdiction and clarify the legal position as regards the interpretation of the scope and ambit of the powers under Sections 89, 90 and 91 of the FA. This is clearly within the powers of this Court. That is why this Court has decided to proceed with these petitions notwithstanding that the criminal petitions may be pending in the criminal jurisdiction of this Court.

(xiii) The Court is satisfied that in the present case the action of the DGCEI in proceeding to arrest Mr. Pallai, Vice-President of MMT, was contrary to law and that Mr. Pallai's constitutional and fundamental rights under [Article 21](#) of the Constitution have been violated. The Court is conscious that Mr. Pallai has instituted separate proceedings for quashing of the criminal case and, therefore, this Court does not propose to deal with that aspect of the matter.'

35. The aforesaid decision was carried in Appeal before the Supreme Court and the following order passed in C.A.No.8081/2018 & C.A.No.8082/2018, dated 23.01.2019:-

'Heard learned counsel for the parties at length.

The issue is as to whether the power of arrest under [Section 91](#) of the Finance Act, 1994 ('the said Act') can be exercised without following the procedure as set out in [Section 73A\(3\)](#) and (4) of the said Act. The High Court has decided, after detailed discussion, that it is mandatory to follow the procedure contained in [Section 73A\(3\)](#) and (4) of the said Act before going ahead with the arrest of a person under [Sections 90](#) and [91](#). We are in agreement with the aforesaid conclusion and see no reason to deviate from it.

Accordingly, these appeals are dismissed.'

36. Though the discussions and conclusions therein have been rendered in the context of Chapter V of the Finance Act, 1994, levying service tax, I am of the view that they are equally applicable to the provisions of the CGST Act as well. Section 132 of the Act as extracted earlier, imposes a punishment upon the Assessee that 'commits' an offence. There is no dispute whatsoever that the offences set out under (a) to (l) of the provision refer to those items, that constitute matters of

assessment and would form part of an order of assessment, to be passed after the process of adjudication is complete and taking into account the submissions of the Assessee and careful weighing of evidence found and explanations offered by the Assessee in regard to the same.

37. The use of words 'commits' make it more than amply clear that the act of committal of the offence is to be fixed first before punishment is imposed. The allegation of the revenue in the present case is that the petitioner has contravened the provisions of Section 16(2) of the Act and availed of excess ITC in so far as there has been no movement of the goods in the present case as against the supplier and the Petitioner and the transactions are bogus and fictitious, created only on paper, solely to avail ITC. The manner of recovery of credit in cases of excess distribution of the same is set out in Section 21 of the Act. This section provides that where the Input Service Distributor distributes credit in contravention of the provisions contained in Section 20 resulting in excess distribution of credit to one or more recipients, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of Section 73 or Section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

38. Thus, 'determination' of the excess credit by way of the procedure set out in Section 73 or 74, as the case may be is a pre-requisite for the recovery thereof. Sections 73 and 74 deal with

assessments and as such it is clear and unambiguous that such recovery can only be initiated once the amount of excess credit has been quantified and determined in an assessment. When recovery is made subject to 'determination' in an assessment, the argument of the department that punishment for the offence alleged can be imposed even prior to such assessment, is clearly incorrect and amounts to putting the cart before the horse.

39. The exceptions to this rule of assessment are only those cases where the assessee is a habitual offender, that/who has been visited consistently and often with penalties and fines for contraventions of statutory provisions. It is only in such cases that the authorities might be justified in proceedings to pre-empt the assessment and initiate action against the assessee in terms of section 132, for reasons to be recorded in writing. There is no allegation, either oral or in writing in this case that the petitioner is an offender, let alone a habitual one.

40. In the present case, the Department does not dispute that action was intended or envisaged in the light of Section 132 of the CGST Act, the counter fairly stating that the provisions of Section 132 of the CGST Act were '*shown*' to the Assessee. There is thus no doubt in my mind that the Department intended to intimidate the petitioner with the possibility of punishment under 132 and this action is contrary to the scheme of the Act. While the activities of an assessee contrary to the

scheme of the Act are liable to be addressed swiftly and effectively by the Department, (the statute in question being a revenue statute where strict interpretation is the norm), officials cannot be seen to be acting in excess of the authority vested in them under the statute. I am of the considered view that the power to punish set out in Section 132 of the Act would stand triggered only once it is established that an assessee has 'committed' an offence that has to necessarily be post-determination of the demand due from an assessee, that itself has to necessarily follow the process of an assessment.

41. I draw support in this regard from the decision of the Division Bench of the Delhi High Court in the case of *Make My Trip (India)* (supra), as confirmed by the Supreme Court reiterating that such action, as in the present case, would amount to a violation of Constitutional rights of the petitioner that cannot be countenanced.

42. The decision of this Court in Criminal Original petition No.30467 of 2018 (batch case), dated 12.02.2019 is relied upon by the respondents. The learned single judge states that '*in the light of the grave position put forth by the prosecution and also the fact that the investigation was at very early stages*', the request for Anticipatory Bail should be rejected and proceeds to do so. This decision does not take into consideration the decision of the Delhi High Court in the case of *Make My Trip (India) Pvt. Ltd*, (supra), confirmed by the Supreme Court

and also does not take into account the relevant statutory provisions of the Revenue enactment, that in my view are necessary to appreciate the facts in proper perspective. The decision is thus distinguishable on facts and in law.

43. As far as the decision rendered by the Rajasthan High Court is concerned, it is distinguishable on facts, as at paragraph 20 thereof, the learned Judge records that the petitioner therein did not controvert the claim that the claim of Input Tax Credit is made based on fake invoices. Thus, no defence was put forth by the petitioner to the allegation of Bill Trading in that case, which is not so in the case before me. This decision is also distinguishable on facts.

44. The learned Single Judge of the Bombay High Court, in Anticipatory Bail Application, in the case of *Meghraj Moolchand Burad v. Directorate General of GST (Intelligence), Pune and another, Anticipatory Bail Application No.2333 of 2018* has considered a similar case and has rejected the Anticipatory Bail taking into consideration the conduct of the applicant, gravity of offence and the serious allegations made. This order has travelled to the Supreme Court in Petition for Special Leave to Appeal Crl. Nos.244/2019, dated 09.01.2019 by the petitioner therein, wherein the Bench has issued notice and granted interim protection in the following terms:-

In the meantime, the petitioner shall not be arrested, provided he appears before the Directorate General of GST Intelligence and in the event of his arrest, he shall be released on bail on furnishing security to the satisfaction of the competent authority.

Learned counsel for the petitioner has submitted that the petitioner shall regularly appear, as and when he is called.'

45. Moreover, the High Court of Karnataka at Bengaluru in Criminal Petition No.979 of 2019 c/w Criminal Petition No.980/2019, dated 19.02.2019 while considering the grant of Anticipatory Bail, in circumstances very similar to the matter before me, has allowed the petition and granted bail in favour of the Assessee with conditions.

46. Issue (ii) is answered in favour of the petitioner. Issue (iii) is allowed, directing the respondents to conclude the process of adjudication within a period of twelve (12) weeks from today, after issuing show cause notice to the petitioner setting out the proposals for assessment, affording full opportunity to the petitioner to respond to the same and advance submissions in person, and pass a reasoned and speaking order, in accordance with law.

47. It is clarified that all observations made in the course of this order are only in the context of the issues that arose for resolution in this writ petition and nothing said herein shall prejudice the stands of either party in the process of adjudication or passing of final order of assessment.

48. To a pointed query as to the measures available for protection

of the interests of the revenue pending adjudication/assessment,

Ms.Nandakumar urges that the power under Article 226 of the Constitution of India are wide enough for the Court to call upon the petitioner to deposit an amount, fixed at the discretion of the court for such protection. Ms.Nandakumar suggests, as the basis for the exercise of such discretion, the amounts set out in the statement recorded from the Managing Director of the petitioner company, extracted elsewhere in this order. She points out that the statement itself makes it more than amply clear that the suppression engaged in by the petitioner is in the region of crores of rupees, leading to the demand computed in the statement, of an amount in excess of Rs.18 crores. The Managing Director of the Petitioner company, according to the department, conceded to the proposals for assessment and has undertaken to remit a sum of Rs.5,00,00,000/- on or before 28.02.2019 and the balance of Rs.13,99,50,468/- before the end of March 2019. Thus she submits that the petitioner be directed to remit a sum of Rupees five crores as a security for the demand as confirmed by the Managing Director.

49. The above request is unacceptable. A statement is no substitute for an assessment. No doubt, the value of the statement and the retraction thereof will be considered by the Assessing Authority while framing the order of assessment and nothing stated in this order shall be considered to be a fetter upon the powers of the assessing authority to do

imposition of a condition even prior to determination of the violations by an assessee and quantification of the consequent demands, this argument is rejected.

50. I however find that the statute contains *inter alia* Section 83 that vests the power of interim and provisional attachment of property to protect the interests of the department, pending assessment. The Section is extracted hereunder:

83. Provisional attachment to protect revenue in certain cases.- *Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.*

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

51. The above provision is in pari materia with the provisions of Section 281B of the Income Tax Act, 1961 that also provides for a provisional attachment of property of an assessee pending adjudication and assessment/re-assessment proceedings where the Income Tax Department believes that such attachment is necessary to protect the interests of the Revenue. The provision is extracted below for the sake of completion and to demonstrate that the provisions of Section 83 have been framed along identical lines as Section 281B.

'Provisional attachment to protect revenue in certain cases

281B. (1) Where, during the pendency of any proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment, the [Assessing] Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the [Principal Chief Commissioner or] Chief Commissioner, [Principal Commissioner or] Commissioner, [Principal Director General or] Director General or [Principal Director or] Director], by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule. [Explanation.—For the purposes of this sub-section, proceedings under sub-section (5) of section 132 shall be deemed to be proceedings for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment.]

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the [Principal Chief Commissioner or] Chief Commissioner, [Principal Commissioner or] Commissioner, [Principal Director General or] Director General or [Principal Director or] Director] may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years [or sixty days after the date of order of assessment or reassessment, whichever is later].'

52. Thus, there is ammunition available in the arsenal of the department that can well be utilised to protect its interests.

53. In summary, this Writ Petition is allowed. Connected WMP is closed, with no order as to costs.

04.04.2019

Index : Yes / No
Web : Yes / No

Speaking order / Non-speaking order
srk/sl

To

- 1 The Superintendent of GST and Central Excise,
Head Quarters Preventive Unit,
Office of the Commissioner of GST and
Central Excise, No.1 Foulks Compound Anai Medu
Salem - 636001
- 2 The Deputy Commissioner of GST and Central Excise
Head Quarters Preventive Unit,
Office of the Commissioner of GST and Central Excise,
No.1 Foulks Compound, Anai Medu, Salem - 6
- 3 The Additional Commissioner of GST and Central Excise,
Office of the Commissioner of GST and Central Excise,
No.1 Foulks Compound, Anai Medu, Salem 636 001
- 4 The Commissioner of GST and Central Excise,
Office of the Commissioner of GST and
Central Excise, No.1 Foulks Compound, Anai Medu,
Salem - 636001

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Dr. ANITA SUMANTH, J.,

srk/sl



Writ Petition No.5501 of 2019
& WMP No.6251 of 2019

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04.04.2019