IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.3971 of 2025&
W.M.P.Nos.4422 and 4424 of 2025

Mrs.Vijaya Palanivel
Proprietor, M/s.Sri Periyandavar Exports
[GSTN:33AAGPV0856P2Z3)(No.33/2, Renuga
Parameshwari Nagar, Nerkunnam Village Post,
Kancheepuram, Tamil Nadu-603310)

Residing At:
181, ALS Nagar, Madambakkam
CHENNAI-600126. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Maduranthagam Assessment Circle,
15/9, Cart Street, Maduranthagam
PIN 603306. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the Respondent in the order passed with Reference No.ZD330224126699A under Section 74 and consequential order in summary of the order in Form GST DRC-07 with same reference number, both dated 21.02.2024 and the show cause notice Reference No.ZD330723062881C with Form GST DRC 01 of the same number both dated 16.07.2023 and quash those orders dated 21.02.2024 and also quash the Show Cause Notice and Form GST DRC 01, both dated 16.07.2023.

For Petitioner : Mr.Antony A.K.
For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the orders dated 21.02.2024 and the show cause notice dated 16.07.2023 of the respondent and to quash the same.

2. The learned counsel for the petitioner would submit that initially show cause notice dated 16.07.2023 for the tax period from April 2022-May 2022 was issued to the petitioner by uploading the same in the GST portal and the said show cause notice contained only one sentence of allegation and without furnishing any reasons for demand. Subsequently, the respondent passed the impugned order dated

21.02.2024 by uploading in the GST portal. The impugned order does not make any findings or determination to acquire any semblance of an adjudicated order and it merely fastened the liability. The liability fastened was for an amount double than what is indicated in the show cause notice and that apart it covered an extended period of April to August 2022 instead of April to May 2022 as indicated in the show cause notice. He therefore submitted that both the show cause notice as well as the impugned order were passed without non application of mind.

3. Further, he would submit that the ingredients of Section 74 of the TNGST Act, 2017 has not been fulfilled by the respondent before issuing the show cause notice and before passing the impugned order. He therefore prays to set aside the both the show cause as well as the impugned order.

4. The learned Government Advocate (Taxes) appearing for the respondent, on instructions would submit that at the time of issuing the

show cause notice and passing of impugned order there was some technical error and therefore the show cause notice was issued without assigning the appropriate reasons and the impugned order also passed without fulfilling the ingredients of Section 74 of the TNGST Act. She therefore prays for appropriate orders.

5. Heard both sides. Perused the records.

6. I find force in the submission made by the learned counsel for the petitioner for the reason that a perusal of the show cause dated 16.07.2023 clearly shows that no reasons have been adduced by the respondent for issuing the show cause notice. For the sake of convenience the show cause notice dated 16.07.2023 is scanned and annexed hereunder:

Office of: Commercial Tax Officer
Jurisdiction: MADURANTHAKAM:Zone-XII:CHENNAI SOUTH:Tamil Nadu
State/UT: Tamil Nadu

Reference No : ZD330723062881C

Date: 16/07/2023

To

GSTIN/ID: 33AAGPV0856P2Z3
Name: VIJAYA PALANIVEL
Address : NO.33/2, RENUGA PARAMESHWARI NAGAR, NERKUNAM VILLAGE POST, Kancheepuram, Tamil Nadu, 603310

Tax Period : APR 2022 - AUG 2022

F.Y. 2022-2023

ARN- NA
(Voluntary payment intimation details, if applicable)

Date- NA

Act/ Rules Provisions :
74/142

Show Cause Notice under section 74

It has come to my notice that tax due has not been paid or short paid or refund has been released erroneously or input tax credit has been wrongly availed or utilized by you or the amount paid by you through the above referred application for intimation of voluntary payment for the reasons and other details mentioned in annexure for the aforesaid tax period.

Therefore, you are directed to furnish a reply along with supporting documents as evidence in support of your claim by the date mentioned in table below .

Notice

You may appear before the undersigned for personnel hearing either in person or through authorized representative for representing your case on the date, time and venue, if mentioned in table below.

Please note that besides tax, you are also liable to pay interest and penalty in accordance with the provisions of the Act.

Please also note that if you make payment of tax stated above along with up to date interest and penalty @ 25% of tax within 30 days of the communication of this notice, then proceeding may be deemed to have been concluded.

Details of personal hearing etc.

Sr. No.	Description	Particulars
1	Section under which show cause notice/statement is issued	74
2	Date by which reply has to be submitted	17/08/2023
3	Date of personal hearing	NA
4	Time of personal hearing	NA
5	Venue where personal hearing will be held	NA

Demand Details-

(Amount in Rs.)

Sr. No.	Tax Rate (%)	Turnover	Tax Period From	Tax Period To	Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	APR 2022	MAY 2022	CGST	NA	1,36,38,929.00	0.00	1,36,38,929.00	0.00	0.00	2,72,77,858.00

2	0	0.00	APR 2022	MAY 2022	SGST	NA	1,36,38,929 .00	0.00	1,36,38,929 .00	0.00	0.00	2,72,77,858. 00
Total							2,72,77,858 .00	0.00	2,72,77,858 .00	0.00	0.00	5,45,55,716. 00

Notice

Signature
Name: SHANMUGAM MANOHARAN
Designation: Commercial Tax Officer
Jurisdiction: MADURANTHAKAM:Zone-XII:CHENNAI SOUTH:Tamil Nadu

7. From the above, it is clear that the show cause notice was issued without furnishing any reason for demand. That apart the impugned order was passed subsequent to the aforesaid show cause notice, but for an extended period of April to August 2022 instead of April to May 2022 as indicated in the show cause notice, which clearly shows that the impugned order is passed without application of mind. Further, no opportunity of personal hearing was granted to the petitioner prior to passing of impugned order which is clearly in violation of principles of natural justice. Therefore, this Court is of the considered view that both the show cause notice as well as the impugned order are without any basis and without fulfilling the ingredients of Section 74 of the TNGST Act and thus they are liable to be set aside.

8. Accordingly, the show cause notice dated 16.07.2023 as well as the impugned order dated 21.02.2024 are quashed. The respondent, if he thinks fit, is granted liberty to issue fresh show cause notice, if it is within the limitation and if the respondent finds any valid reasons to

issue notice under Section 74 of the Act and thereafter proceed in accordance with law.

9. In the result, this writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.02.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
arr

KRISHNAN RAMASAMY.J.,

arr

To

The Assistant Commissioner (ST),
Maduranthagam Assessment Circle,
15/9, Cart Street, Maduranthagam
PIN 603306.

W.P.No.3971 of 2025

24.02.2025