IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.Nos.3993, 3996 & 4000 of 2025
and

W.M.P.Nos.4441, 4442, 4443, 4445,
4448, 4449, 4451, 4452 , 4457, 4459, 4461, 4463 of 2025

MRL Industrial Cooperative Service Society Ltd.,
rep. by its Authorized Signatory, Mr.K.Hariram

...Petitioner

Vs.

1. The Commercial Tax Officer,
   Manali Assessment Circle,
   Integrated Commercial Taxes Building,
   No.32, Elephant Gate Bridge Road,
   Vepery – 600 003.

2. The Branch Manager,
   State Bank of India
   CPCL Campus Manali,
   Chennai – 600 068.

3. The Assistant Commissioner (ST) (FAC)

Manali Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Vepery – 600 003. ...Respondents

Prayer in W.P.No.3993 of 2025

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the file of the first respondent and to quash the impugned order under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017 /Central Goods and Service Tax Act, 2017, including the Summary of the Order in Form GST DRC -07 both dated 29.04.2024 and having Ref.No.ZD330424232840Q and its annexure dated 29.04.2024, in GSTIN : 33AAAAM1788L1ZD/2018-19, passed by the first respondent for the FY 2018-19.

Prayer in W.P.No.3996 of 2025

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records from the file of the first respondent and to quash the impugned order under Section 161 of the Tamil Nadu Goods and Service Tax Act, 2017 /Central Goods and Service Tax Act, 2017 dated 11.12.2024, having Ref.No.ZD3312240938862 passed by the first respondent for the FY 2018-19 in GSTIN : 33AAAAM1788L1ZD and to direct the first respondent to dispose of the rectification application after considering the materials available on record and by complying with the principles of equity and natural justice.

Prayer in W.P.No.4000 of 2025

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the file of the first respondent and to quash the impugned order under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017 /Central Goods and Service Tax Act, 2017, including the Summary of the Order in Form GST DRC -07 both dated 29.04.2024 and having Ref.No.ZD330424237320X and its annexure dated 29.04.2024, in GSTIN : 33AAAAM1788L1ZD/2018-19, passed by the first respondent for the FY 2018-19.

Appearance of the Counsel in all W.Ps.

For Petitioner : Mr.N.V.Balaji

For Respondent : Mr.P.S.Raman
Advocate General
assisted by
Mr.V.Prashanth Kiran
Government Advocate (T)

COMMON ORDER

Heard Mr.N.V.Balaji, learned counsel appearing for the petitioner and Mr.P.S.Raman, learned Advocate General assisted by Mr.V.Prashanth Kiran, learned Government Advocate (T), who takes notice on behalf of the respondents. With consent, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

2. The challenge in W.P.No. 3993 of 2025 is to the order passed by the first respondent under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017 /Central Goods and Service Tax Act, 2017, including the Summary of the Order in Form GST DRC -07 both dated 29.04.2024 and its annexure dated 29.04.2024, in GSTIN : 33AAAAM1788L1ZD/2018-19 for the FY 2018-19.

2.1 The challenge in W.P.No.3996 of 2025 is to the order passed first respondent under Section 161 of the Tamil Nadu Goods and Service Tax Act, 2017 /Central Goods and Service Tax Act, 2017 dated 11.12.2024, for the FY 2018-19 and to direct the first respondent to dispose of the rectification application.

2.2 The challenge in W.P.No.4000 of 2025 is to the order passed by the first respondent under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017 /Central Goods and Service Tax Act, 2017, including the Summary of the Order in Form GST DRC -07 both dated 29.04.2024 and its annexure dated 29.04.2024, in GSTIN : 33AAAAM1788L1ZD/2018-19 for the FY 2018-19.

3. As the issue involved in all these Writ Petitions is interconnected, they were heard together and disposed of vide this Common Order.

4. The learned counsel for the petitioner would submit that all the notices/communications, which culminated in the impugned orders were merely uploaded in the GST portal, which, the petitioner has no occasion to view the same, therefore, the petitioner could not file reply nor appear for the personal hearing., however, the first respondent, without waiting for the petitioner's reply, and without hearing the petitioner, passed the impugned orders, which are nothing but ex parte orders, as the same suffer from violation of principles of natural justice.

4.1 The learned counsel would further submit that the petitioner is a Cooperative Society rendering man-power supply, since, the first respondent, all of a sudden, passed the impugned orders, the petitioner is facing hardship to distribute the salaries to the employees, inasmuch as, by virtue of the impugned proceedings, the petitioner's Bank Account has been ordered to be attached. Hence, the learned counsel prays for setting aside the impugned orders. It is also submitted that in the event, this Court is inclined to set aside the impugned orders, the petitioner is agreable to pay 10% of the disputed tax amount and hence, prayed for appropriate orders.

5. The learned Advocate General assisted by the learned Government Advocate for the respondents fairly submitted that if the petitioner is ready and willing to deposit 10% of the disputed tax, then, the prayer sought for by the petitioner may be considered.

6. I have given due considerations to the submissions made on either side and perused the materials available on record.

7. On perusal of records, it is crystal clear that the impugned orders came to be passed against the petitioner, behind their back, as the respondent-Department has not taken any steps to serve any notices/communications, which culminated in the impugned orders directly through physical mode of service and made it available only in the GST Portal under the "View of additional notices and orders' column, which, the petitioner was not aware and ultimately, the impugned orders came to be passed against the petitioner without even affording any opportunity of hearing to the petitioner, which is in total violation of principles of natural justice. Therefore, this Court is of the view that the impugned orders are nothing but an ex parte orders and the same have to be set aside.

8. Accordingly, this Court passes the following orders/direction:-

i) **a)** The orders passed by the first respondent and the Summary of the Order in Form GST DRC-07, both dated 29.04.2024 having Ref.No.ZD330424232840Q and its annexure dated 29.04.2024, in GSTIN : 33AAAAM1788L1ZD/2018-19, for the FY 2018-19, impugned in W.P.No.3993 of 2025, **b)** the orders passed by the first respondent and the

Summary of the Order in Form GST DRC-07, both dated 29.04.2024 in Ref.No.ZD330424237320X and its annexure dated 29.04.2024, in GSTIN : 33AAAAMI1788L1ZD/2018-19 for the FY 2018-19, impugned in W.P.No.4000 of 2025, and c) the orders passed by the first respondent dated 11.12.2024 for the FY 2018-19, impugned in W.P.No.3996 of 2025 are set aside.

ii) Consequently, the matters are remanded back to the first respondent for fresh consideration.

iii) While remanding the matters, it is made clear that the impugned orders are set aside subject to the condition that the petitioner deposits 10% of the disputed tax in respect of W.P.Nos.3993 and 4000 of 2025, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file reply along with supportive documents within a period of two weeks.

v) Thereupon, the first respondent is directed to consider the same and afford an opportunity of personal hearing to the petitioner by issuing a clear 14 days notice and after hearing the petitioner in full, shall decide the matter in accordance with law.

vi) As the petitioner's bank account has been ordered to be attached by virtue of the impugned proceedings, the first respondent, upon production of the order copy along with proof for payment of 10% of the disputed tax by the petitioner, in the manner as directed by this Court, in sub para iii) of Para No.8 of this order, is directed to issue appropriate order towards de-freezure of the bank account of the petitioner forthwith and permit the petitioner to operate the bank account, as the petitioner, being a Cooperative Society, rendering manpower supply, they have to disburse salaries to the employees working under them on day-to-day basis.

9. In the result, the Writ Petitions are allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.02.2025

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Index : yes/no
Neutral Citation : yes/no

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To

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Krishnan Ramasamy,J.,

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