IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP Nos. 7412 & 7417 of 2025
AND
WMP Nos. 8292 & 8297 of 2025

Tvl Geetha Surgicare,
Represented By its Proprietor Kondian
Krishnan Rajagopal
No.101, Town Railway Station Road
Salem, Tamil Nadu 636 001.

Petitioner(s) in both W.P's

Vs

1. The Deputy State Tax Officer 1
Hasthampatty Assessment Circle,
Commercial Taxes Complex,
Pitchards Road, Asthampatti,
Salem Tamil Nadu 636 007.

2.The Branch Manager,
Karur Vysya Bank,
PB No 3, 45-46 Car Street,
Salem 636 001.

Respondent(s) in both W.P's

PRAYER in W.P.NO.7412 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing GSTIN:33ACCPR2458K1ZG/2019-20 along with the summary order Form GST DRC-07 bearing Reference No.ZD330623132291U dated 28.06.2023 passed by the first respondent.

PRAYER in WP No. 7417 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing GSTIN:33ACCPR2458K1ZG /2020-21 along with the summary order Form GST DRC-07 bearing Reference No.ZD3308231852773 dated 31-08-2023 passed by the first respondent and quash the same and subsequently directing the first respondent to lift the bank attachment of the petitioner.

Appearance of counsel in both W.P's

For Petitioner(s): Ms.N.Asmitha

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (tax) For R1
Mr.S.L.Rajesh For R2

COMMON ORDER

Since the issue involved and the relief sought in both these Writ Petitions are identical in nature, the same were heard together and are disposed of vide this common order.

2. Challenging the impugned orders dated 28.06.2023 and 31.08.2023 passed by the first respondent relating to the assessment year 2019-20 & 2020-21, and also the consequential direction to the first respondent to lift the bank attachment of the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner is a proprietorship firm and engaged in the trading of pharmaceutical products and is registered under the Goods and Service Tax Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, during the scrutiny of returns, it was alleged that there was discrepancies in the Input Tax Credit (ITC) availed by the petitioner.

3.1. Pursuant thereto, intimation notices in Form DRC-01A were issued to the petitioner on 22.08.2022 (W.P.No.7412 of 2025) and 12.05.2023 (W.P.No.7417 of 2025) in respect of assessment period 2019-20 and 2020-21 respectively, followed by show cause notices in Form DRC-01 were to the petitioner on 27.04.2023 and 28.07.2023 respectively through GST common portal. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned orders came to be passed by the first respondent, confirming the proposals.

4. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned orders of assessment have been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. It is further submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies in the Input Tax Credit (ITC) availed by the petitioner.

5. It is further submitted by the learned counsel for the petitioner that the petitioner has already remitted the entire disputed tax and they may be granted an opportunity before the adjudicating authority to put forth their objections to the proposal.

6. Taking into account the peculiar facts of the case, wherein, the petitioner has already remitted the entire disputed taxes, this Court is of the view that the petitioner may be granted one final opportunity to put forth his objections, which was not objected to by the learned Government Advocate for the first respondent.

7. In view of the above, this Court passes the following directions/orders:

(i) The impugned orders dated 28.06.2023 and 31.08.2023 in respect of the assessment period 2019-20 & 2020-21 are set aside and the matters are remanded to the first respondent for fresh consideration.

(ii) The petitioners shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(iii) On filing of such reply/objection by the petitioners, the first respondent shall consider the same and issue a 14 days clear notice by fixing the date for personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioners, as expeditiously as possible.

8. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

24-04-2025

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

To

1. The Deputy State Tax Officer 1 Hasthampatty Assessment Circle,
Commercial Taxes Complex,
Pitchards Road, Asthampatti,
Salem Tamil Nadu 636 007.

2.The Branch Manager,
Karur Vysya Bank,
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KRISHNAN RAMASAMY J.

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