# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2025

CORAM :

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.No.9567 of 2025
and
W.M.P.Nos.10724, 10727 and 10728 of 2025

Simon David Augustine ... Petitioner

Vs.

1.The Deputy Commercial Tax Officer,
Integrated Commercial Tax Office Complex,
Near Railway Station,
Parasuramanpatti, Gudiyatham.

2.The Commercial Tax Officer,
Integrated Commercial Tax Office Complex,
Near Railway Station,
Parasuramanpatti, Gudiyatham. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the 1st Respondent in the impugned orders dated 20.03.2024 bearing Reference No.ZD330324129870L for the F.Y.2018-19 passed by the 1st Respondent and further call for the records of the 2nd Respondent in the impugned orders dated 30.04.2024 bearing Reference No.ZD330424245069H for the F.Y.2018-19 passed by the 2nd Respondent and quash the same.

For Petitioner : Mr.Chikkars Srikanth

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

**ORDER**

This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Government Advocate for the Respondents.

2. In this Writ Petition, the Petitioner has challenged the impugned Order dated 20.03.2024 passed by the Deputy Commercial Tax Officer / first respondent for the tax period 2018 – 2019 and order dated 30.04.2024 passed by the Commercial Tax Officer / second respondent for the same period.

3. The facts on record reveals that the impugned orders have preceded by a Show Cause Notices in GST DRC – 01 are as detailed below:-

| ***Sl.No*** | ***A.Y.*** | ***DRC – 01*** | ***DRC – 07*** | ***Provision*** |
|---|---|---|---|---|
| 1 | 2018 – 2019 | 07.03.2022 | 20.03.2024 | Section 73 of respective GST enactment |
| 2 | 2018 – 2019 | 02.03.2024 | 30.04.2024 | 74 of the respective GST enactment |

The Show Cause Notices in GST DRC – 01 have culminated in the above mentioned respective impugned orders in DRC - 07.

4. The proceedings that was initiated by the Commercial Tax Officer namely the 2nd Respondent under Section 74 was earlier dealt by the Deputy Commercial Tax Officer namely 1st Respondent vide order dated 20.03.2024.

5. The dispute pertains to difference between GSTR – 1 and GSTR – 3B for the period in dispute. Since the Deputy Commercial Tax officer had already issued a notice on 07.03.2022 under Section 73 of the respective GST enactments which has culminated in the order dated 20.03.2024, question for invoking the extended period of limitation by the Commercial Tax Officer under Section 74 of the said enactment on 02.03.2024 to confirm a demand on 30.04.2024 cannot be countenanced.

6. As such the 2nd proceedings under Section 74 vide order dated 30.04.2024 *prima facie* appears to be contrary to the law settled by the Hon'ble Supreme Court in ***Nizam Sugar Factory*** Vs. ***Collector of Central Excise, A.P.,***

reported in ***(2006) 11 SCC 573***.

7. Considering the fact that the Petitioner has not replied to the respective Show Cause Notices in DRC – 01 dated 07.03.2022 and 02.03.2024 issued under Section 73 and 74 which have culminated in the impugned orders dated 20.03.2024 and 30.04.2024 and following the consistent view taken by this Court under similar circumstances, the cases are remitted back to the 2nd Respondent namely the Commercial Tax Officer to pass a fresh order on merits subject to the Petitioner depositing 50% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

8. Within such time, the Petitioner shall also file a reply to the respective Show Cause Notices in GST DRC-01 dated 07.03.2022 and 02.03.2024 together with requisite documents to substantiate the defence by treating the impugned Orders dated 20.03.2024 and 30.04.2024 as an addendum to the respective Show Cause Notices dated 07.03.2022 and 02.03.2024.

9. In case the Petitioner complies with the above stipulations, the concerned Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

10. It is made clear that bank attachment shall be lifted subject to the deposit of 50% of the disputed tax as ordered above and no other amount is in arrears barring the amount demanded under the impugned Order.

11. In case the Petitioner fails to comply with any of the stipulations, the concerned Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

12. Needless to state, before passing any such order, the Petitioner shall be heard.

13. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

**06.11.2025**

Neutral Citation : Yes / No

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To:

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Near Railway Station,
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**C.SARAVANAN, J.**

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