IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2025

CORAM
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.14694 of 2025
and
WMP.No.16586 of 2025

Velan Hotels Ltd,
Rep.by its Executive Director
Mr.M.R.Gautham
No.41, Kangeyam Road
Tiruppur – 641 604. ...Petitioner

Vs.

1.The Government of Tamil Nadu
Commercial Taxes
Rep.by its Secretary
Secretariat, Fort St.George
Chennai 600 009.

2.The Assistant Commissioner (ST)
Tiruppur Central -I
Office of the Assistant Commissioner (ST)
No.16, Emperor Building, First Floor
Indira Nagar 1st Street
Avinashi Road
Tirupur 641 603. ...Respondents

Prayer: This Writ Petition is filed under article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to re-determine and clarify that the section quoted in Section

74 of the TNGST Act whereas it ought to Section 73 of the TNGST Act in the assessment order for the financial year of 2018-2019 passed on 11.08.2023 in reference.No.ZD330823059690A and enable the petitioner to avail amnesty scheme for waiver of both the interest and penalty for the financial Year of 2018-2019.

For Petitioner : Mr.B.Ravi Raja

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

This Writ Petition has been filed for the following relief. This case was listed along with batch of cases wherein the jurisdiction of the respondent to pass under Section 74 of the respective GST Enactments Act challenged.

2. The operative portion of the impugned order seeking to demand penalty and interest reads as follows:

Details	***SGST***	***CGST***	***IGST***	***TOTAL***
Tax Due	-	-	91752	91752
Penalty U/s 73 of the GST Act at 10% of the Tax due or Rs.10,000.00 whichever is higher	-	-	9175	9175
Interest as per Sec.50(1) of the GST Act	257608	253685	-	511293
Total	257608	253685	100927	612220

3. The show cause notice preceded the impugned order has been issued under Section 74 of the Act. Detailed show cause notice dated 09.03.2022 however invokes Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017. Relevant portion of the said detailed show cause notice reads as under:

CALCULATION OF TAX LIABILITY

> *In view of the above, it has been proposed to levy of interest and penalty as per the provision under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017, however before determination of such interest and penalty, its hereby show cause as to why above proposed interest and penalty as per law shall not be levied for the above said reasons as discussed in the show cause notice and file their objections, if any*

to the above proposals, along with documentary evidences, in Form DRC-06, as required under Rule 142(4) of Central Goods and Services Tax Rules 2017 and Tamil Nadu Goods and Services Tax Rules 2017, within Thirty Days from the date of receipt of this show cause notice, failing which the assessment order will be passed according to law without further notice."

4. The learned counsel for the petitioner would submit that the petitioner would have prepared to workout remedy under Section 128 A of the respective Goods and Service Tax Act, 2017, but for reference to Section 74 in the show cause notice.

5. Under these circumstances, the learned counsel for the respondent was directed to get instructions as to whether, the impugned order has been passed under Sections 73 or 74 of the Act.

6. The learned counsel for the respondent has now reported that he had instruction to report that the impugned order is passed under Section 73 of the Act and that the reference to Section 74 of the Act in the

summary of the show cause notice was made erroneously.

7. Considering the same, there can be no impediment for the petitioner to workout the remedy under Section 128 A of the respective GST Enactments.

8. Therefore, this Writ Petition stands disposed of with above liberty. The respondents are directed to issue instruction to the Administrators to make suitable corrections in the web portal to amend the impugned order has been passed under Section 73 of the respective GST Enactments Act. Meanwhile, the petitioner shall move suitable application for setting the case under Section 128A of the respective GST Enactments.

9. With the above direction, this Writ Petition stands disposed of. No costs. Connected Writ Miscellaneous Petition is closed.

05.11.2025

Index : Yes/No

Speaking order : Yes/No
Neutral Case Citation : Yes/No
dna

C.SARAVANAN, J.

dna

To

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