IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.14529 of 2025
and
W.M.P.Nos.16412 & 16413 of 2025

M/s.Balaji Transport
Rep by its Proprietor Alagappan
Natesan 2121 11, Bbd Complex Salem Main Road,
Sankari, Salem 637 301 ...Petitioner

Vs.

The Assistant Commissioner (st)
Sankari Assessment Circle, Sankari ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the impugned proceedings of the respondent passed in GSTIN:33ACSPN6157D1ZF/2017-2018 dated 18.07.2024 and quash the same.

For Petitioner : Mr.P.Rajkumar
For Respondent : Mrs.K. Vasanthamala
Government Advocate (Tax)

ORDER

Mrs.K. Vasanthamala, learned Government Advocate takes notice for the Respondent.

2. 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 Respondent.

3. This case also was part of the batch. In this Writ Petition, the petitioner has challenged the impugned order dated 18.07.2024 by filing this writ petition on 17.04.2025. The case of the petitioner is that the impugned proceedings has preceeded notice in DRC 01 dated 25.11.2021 which was however not communicated to the petitioner.

4. It is submitted that even after the impugned order was passed, the petitioner was unable to download the same from the portal.

5. It is the further case of the petitioner that the petitioner is engaged in the trasnportation of the goods and as such the petitioner is exempted from payment of tax in terms of Notification No.13/2017 dated 28.06.2017. It is submitted that the impugned order has wrongly invoked the machinery under Section 74 of the Act and confirmed the demand.

6. Learned counsel for the petitioner submitted that since the petitioner was under boanfide belief that the tax was payable by the recipient under reverse charge mechanisam and that the petitioner also did notice that the impugned order was passed earlier on 18.07.2024 and that only after recovery proceedings were initiated, the petitioner approached this court by filing the writ petition on 17.02.2025

7. Learned counsel for the respondent, on the other hand, would submit that the petitioner has not replied to the show cause notice despite certain reminders as mentioned in the preamble to the impugned order dated 18.07.2024. It is further submitted that in the impugned order itself, it has been stated that the recipients on the other hand has claimed ITC passed on by the petitioner and that the petitioner has not paid the tax so far. The relevant portion of the imugned order reads as under:-

> *It is further observed that, the recipients at other end, had claimed the ITC passed on by the Tax Payer at this end even tax dues have not been paid so far by the supplier at this end.*

8. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondent, I am inclined to dispose of this writ petition, following the consistent view taken by this court under similar circumstances.

9. That apart, there are several disputed questions of fact(s) and therefore, as to whether invocation of machinery under Sections 73 or 74 was within jurisdiction or outside the jurisdiction. It cannot be decided at this stage without a reply to notice or discussion on the same. Petitioner is therefore directed to file a reply in the said proceedings by treating the impugned order as the show cause notice. The respondent, shall in any event, furnish a copy of the notice in DRC 01 to the petitioner so that the petitioner can file an approriate reply.

10. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST FORM DRC-01 dated 25.11.2021 together with requisite documents to substantiate the case by treating the impugned Order dated 18.07.2024 as an addendum to the Show Cause Notice dated 25.11.2021. Reply if any shall be filed within a period of 60 days from the date of receipt of

a copy of this order together with pre-deposit of 25% of the disputed tax in cash.

11. In case the Petitioner complies with the above stipulations, the 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.

12. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

13. In case the Petitioner fails to comply with any of the stipulations, the 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.

14. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

C.SARAVANAN, J.

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

30.10.2025

Neutral Citation : Yes / No

gv

To:

The Assistant Commissioner (st)
Sankari Assessment Circle, Sankari

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