IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP Nos. 19672 & 19677 of 2025
and
W.M.P.Nos.22052, 22053, 22059 & 22060 of 2025

Tvl. Aruna Hotel Limited,
Rep by its Authorized Signatory Mr.Muralidharan R
No.145, Sterling Road, Nungambakkam,
Chennai 6000 034.

Petitioner in both W.P's

Vs

The Assistant Commissioner (ST).
Valluvarkottam Assessment Circle.

Respondent in both W.P's

PRAYER in W.P.No.19672 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for Respondent's Order dated 16.08.2024 with Ref. No.ZD330824130510U and quash the same.

PRAYER in W.P.No.19677 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for Respondent's Order dated 12.03.2025 with Ref.No.ZD330325072546E and quash the same.

Appearance of counsel in both W.P's

For Petitioner	:	Ms.Disha Jain for Mr.Adithya Reddy
For Respondent	:	Mr.V.Prasanth Kiran, Government Advocate

COMMON ORDER

Since the issue involved in both the writ petitions are one and the same, the same were heard together and disposed of vide this common order.

2. Mr.V.Prasanth Kiran, learned Government Advocate (taxes) takes notice on behalf of the respondents. By consent of the parties, the main Writ Petitions are taken up for disposal at the time of admission itself.

3. Challenging the order dated 16.08.2024 and the rectification order dated 12.03.2025 passed by the respondent relating to the assessment year 2019-20, the petitioner had filed the present writ petitions.

4. The learned counsel for the petitioner submitted that a show cause notice in Form DRC-01 dated 21.05.2024 was issued to the petitioner through

GST common portal. As the petitioner was unaware of the show cause notice uploaded in the GST portal, the petitioner failed to submit its reply to the show cause notice and that the impugned order dated 16.08.2024 came to be passed, confirming the proposals contained in the show cause notice.

4.1. Aggrieved by the said order, the petitioner had preferred a rectification application to rectify the order dated 16.08.2024 passed by the respondent, relating to the tax period April 2019 to March 2020, claiming that the subject matter in said order has been raised earlier, and ultimately, dropped after considering the reply filed by the petitioner. The respondent passed the rectification order dated 12.03.2025, rejecting the application by stating that "*the reply with documents are filed for the first time on 15.11.2024, that too after having issued the adjudication orders on 16.08.2024, which is after a period of nearly three months from the date of passing of the Adjudication orders. These records were not placed either before the proper officer who conducted the Audit or before the adjudication proper officer. Further, the documents now filed cannot be considered under Section 161 of the TNGST Act,* *2017/CGST Act, 2017 as only error apparent on the face of the records could be considered under Section 161 of the TNGST Act, 2017/CGST Act, 2017. The correctness or otherwise cannot be verified at this stage.*"

4.2. According to the learned counsel for the petitioner that the conclusion arrived at by the respondent is perverse.

5. The learned counsel for the petitioner further submitted that by virtue of the rectification application, the petitioner intend to bring to the knowledge of the Assessing Authority that for the same period, the same Assessing Authority had initiated the proceedings. He further submitted that though it is an ex-parte order, there is an error apparent on the face of it, the petitioner seeks leave of this Court to file an appeal before the Appellate Authority and he also undertakes to pay additional 5% of the disputed tax over and above the statutory deposit of 10% of the disputed tax at the time of filing the appeal.

6. Mr.V.Prasanth Kiran, learned Government Advocate appearing for the

respondent submitted that liberty may be granted to the petitioner to file an appeal, subject to the condition that the petitioner shall pay some additional deposit over and above the statutory deposit of 10% of the disputed tax at the time of filing the appeal.

7. Heard both sides and perused the materials available on record.

8. In the present case, after passing the order dated 16.08.2024, the petitioner had filed rectification petition to rectify the same, by virtue of recalling the assessment order based on the subject matter, the similar order was passed by the same Assessing Officer, which is only permissible before the Appellate Authority. In view of the above, this Court is not inclined to entertain the present writ petitions. Accordingly, these Writ Petitions are dismissed. However, liberty is granted to the petitioner to file an appeal before the Appellate Authority with the following directions:

(i) The petitioner shall deposit additional 5% of the disputed tax over and above the statutory deposit of 10% of the disputed tax for the purpose of filing the appeal, within a period of four (4) weeks from the date of receipt of a copy of this order.

(ii) If the petitioner deposits the additional 5% of the disputed tax over and above the statutory deposit of 10% of the disputed tax, within the time stipulated above, the Appellate Authority is directed to take up the Appeal on its file and shall decide and dispose of the same on merits and in accordance with law.

iii) The Appellate Authority is directed to ensure the payment of 15% of the disputed tax by the petitioner for the purpose of taking the appeal on its file.

iv) No costs. Consequently, connected Miscellaneous Petitions are closed.

04-06-2025

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

To

The Assistant Commissioner (ST).
Valluvarkottam Assessment Circle.

KRISHNAN RAMASAMY J.

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