IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

WP.Nos.18740 & 18744 of 2025
and
WMP.Nos.20975, 20976, 20978 & 20981 of 2025

Tvl.Aarupadai Borewells
Rep by its Proprietor – K.Muthuvel
No.66/3, K.K.Nagar, Rayanur
Karur, Tamilnadu 639003 ....Petitioner in both the cases

Vs.

1. The State Tax Officer (Roving Squad -II)
Office of the Joint Commissioner (ST) (Intelligence)
Erode.

2. The Commercial Tax Officer
Erode. ..Respondent in both the cases

Prayer in WP.No.18740/2025 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the files of the original impugned order of the 1st respondent order in GSTIN:33AUZPM1646H1Z8/2021-2022 dated 13.03.2025 and along with the consequential proceedings summary of order under Section 74 in GST DRC -07 vide Ref.No.ZD330325088120S dated 13.03.2025 passed by the 2nd respondent for the tax period 2021-2022 quash the same.

Prayer in WP.No.18744/2025 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the files of the original impugned order of the 1st respondent order in

GSTIN:33AUZPM1646H1Z8/2020-2021 dated 13.03.2025 and along with the consequential proceedings summary of order under Section 74 in GST DRC -07 vide Ref.No.ZD33032508054J dated 13.03.2025 passed by the 2nd respondent for the tax period 2020-2021 quash the same.

For Petitioner in all the cases : M/s.G.Vardhini Karthik
for Mrs.R.Hemalatha

For Respondent in all the cases : Mrs.K.Vasanthamala
Government Advocate (Tax)

COMMON ORDER

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

2. By this common order, both these Writ Petitions are 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.

In WP.No.18744/2025:

3. In this Writ Petition, the petitioner has challenged the assessment order dated 13.03.2025 n DRC-07 passed by the 2nd Respondent for the tax period 2020-2021. The impugned order preceded a surprise inspection on 10.09.2024 under Section 67 of the respective GST Enactment followed by an intimation dated 06.12.2024 in DRC 01 A and later by a Show Cause Notice in DRC 01 dated 19.12.2024 .

4. After several reminders, Petitioner filed a reply to the Show Cause Notice in DRC-01 IN Form DRC-06, wherein the petitioner attempted to shift the burden of proof on the Department as to how Section 74 of the respective GST enactments has been invoked.

5. A reading of the Show Cause Notice indicates that there is no final determination in the said Show Cause Notice when it called upon the petitioner to pay the amount along with notice of imposing of penalty under Section 74 and interest under Section 50 of the respective GST enactments. The Show Cause Notice does not however clearly state as to how the ingredients to invoke Section 74 of the Act has been invoked. It should have been issued clearly articulated the before confirming the demand.

6. Considering the same, impugned order is quashed and the case is remitted back to the 1st respondent to pass a fresh order on merits. The impugned order shall be treated as an addendum to the Show Cause Notice and the petitioner should explain as to how and why the demand that has been confirmed against the petitioner in the impugned order should not be re-confirmed in the *de novo* proceedings

7. It is open to the petitioner to raise all the defences in the *denovo* proceedings that are available in law before the Respondent.

8. Within such time, the Petitioner shall also file a reply to the Show Cause Notices in DRC -01 dated 19.12.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 13.03.2025 as an addendum to the respective Show Cause Notice dated 19.12.2024.

9. In case the Petitioner complies with the above stipulations, the 1st Respondent shall proceed to pass final orders on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit.

10. In case the Petitioner fails to comply with the above stipulation, the 1st Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petitions was dismissed *in limine* today.

11. Needless to state, before passing any such order, the 1st Respondent shall give due notice to the Petitioner.

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

In WP.No.18740 of 2025

13. In this Writ Petition, the petitioner has challenged the impugned order dated 13.03.2025 in DEC-07 for the tax period 2021-2022 passed by the Respondents, which was preceded by the Show Cause Notice in DRC-01 dated 19.12.2024. The Petitioner replied to the Show Cause Notice in DRC-01 on 01.03.2025, 04.03.2025 and 10.03.2025 in Form GST DRC-06.

14. The challenge to the impugned order in this Writ Petition is again similar to the challenge made in WP.No.18744 of 2025, wherein the petitioner has challenged the impugned Order dated 13.03.2025 on the ground of invocation of Section 74 of the GST enactments.

15. Facts of this case are almost identical.

16. Considering the above, this Writ Petition is liable to be disposed of with the same observation of the order passed by this Court in WP.No.18744 of 2025.

17. This Writ Petition stands disposed of in terms of the order in WP.No.18744 of 2025. No costs. Connected miscellaneous petitions are closed.

27.11.2025

Neutral Citation : Yes / No
gv

To:

1. The State Tax Officer (Roving Squad -II)
   Office of the Joint Commissioner (ST) (Intelligence)
   Erode.

2. The Commercial Tax Officer
   Erode.

C.SARAVANAN.,J

gv

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