IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2025

CORAM
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19450 of 2025
and
WMP.No.21732 of 2025

M/s.Win Star Marketing India Pvt. Ltd.,
Rep by its Director Mr.Ramnath,
Having office at
112, Chokkanathar Street,
Karthikeyan Nagar,
Maduravoyal, Chennai – 600 095. ...Petitioner

Vs.

1.The Union of India,
Represented by the Secretary,
Department of Revenue, Ministry of Finance,
No.137, North Block,
New Delhi – 110 001.

2.The Goods & Services Tax Council,
Represented by its Secretary,
GST Council Secretariat,
5th Floor Tower – II Jeevan Bharti Building,
Janpath Road, Connaught Palace
New Delhi 110 001.

3.The Central Board of Indirect Taxes & Customs,
Represented by its Director,
North Block, New Delhi – 110 001.

4.The State of Tamil Nadu,
Represented by its Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St. George,
Chennai – 600 009.

5.The State Tax Officer,
Vanagaram Assessment Circle,
No.4/109, 3rd Floor,
Nazarathpettai, Chennai – 600 123. ...Respondents

Prayer: This Writ Petition is filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Form GST DRC-07 dated 06.08.2024 bearing Reference No.ZD330824045832C passed by the 5th respondent and quash the same.

For Petitioner : Mr.G.Madan

For RR1 to 3 : Ms.Revathi Manivannan
Senior Standing Counsel

For R4 : Mr.R.Sasikumar
Government Advocate

For R5 : Mr.T.N.C.Kaushik
Additional Government Pleader

ORDER

The Petitioner is before this Court against the impugned order dated 06.08.2024 passed under Section 73 of the respective GST Enactments Act. By the impugned order the following demand has been confirmed which reads as follows:

Total Abstract of Demand Proposed:

ACT	TAX	INTEREST	PENALTY	TOTAL
IGST	11,69,284	9,04,737	1,16,928	21,90,949
CGST	8,893	6,881	10,000	25,774
SGST	37354	28902	10000	76,256
Total	12,15,531	9,40,520	1,36,928	22,92,979

2. However, both the learned counsel for the petitioner and the learned counsel for the respondents submitted that the tax amount Rs.12,15,531/- as in column total in the above table is actually only Rs.11,69,284/- and rest of the two amounts for Rs.8893/- and Rs.37354/- have been wrongly added.

3. The petitioner was issued with a show cause notice in Form GST REG-31 for cancellation of the registration.

4. The petitioner failed to file the return under Section 39 of the respective GST Enactments. The petitioner also failed to file GST REG-1 return for the month of February 2024 to utilize the credit earned to discharge the liability towards the tax in GST REG-3.

5. Thereafter, the GST registration of the petitioner was also cancelled vide order dated 24.09.2024 in Form GST REG -19. The petitioner had an occasion to visit the web portal to see whether the petitioner was indeed issued with the summary of the show cause notice dated 28.05.2024 in Form GST DRC-01. The petitioner claims to have came to know about it later that the petitioner had been issued with the show cause notice dated 28.05.2024 and a summary of the show cause notice in DRC-01 dated 28.05.2024.

6. The learned counsel for the petitioner would submit that the petitioner be given a fresh opportunity to explain the case as there are no justifiable ground to confirm the demand against the petitioner.

7. The learned counsel for the respondents on the other hand submitted that the petitioner is to be blamed not only for the cancellation

of the GST registration on 24.09.2024 but also the impugned order dated 06.08.2024 as the petitioner failed to respond to the notices that preceded the impugned order. It was further submitted that the time limit for filing an appeal has also expired as the petitioner has approached the Court only on 14.05.2025 to assail the impugned order dated 06.08.2024.

8. Under similar circumstances, Orders have been quashed and cases have been remitted back to pass a fresh order on terms subject to such Assessee depositing 10% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

9. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the 5th Respondent to pass a fresh order subject to the Petitioner depositing 25% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of 45 days from the date of receipt of a copy of this order. The amount that is directed to pre-deposit shall be refunded to the petitioner in case, the demand is eventually dropped.

10. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 28.05.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 06.08.2024 as an addendum to the Show Cause Notice dated 28.05.2024.

11. In case the Petitioner complies with the above stipulations, the 5th 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 vacated.

12. It is made clear that bank attachment shall be lifted subject to the deposit of 25% of the disputed tax as ordered above and no other amount is in arrears barring the amount demanded under the impugned Order.

13. In case the Petitioner fails to comply with any of the stipulations, the 5th 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 5th Respondent shall give due notice to the Petitioner.

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

05.11.2025
(1/2)

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No
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<u>C.SARAVANAN, J.</u>

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