IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.34464 of 2025
and
W.M.P.Nos.38613 and 38620 of 2025

M/s.Gayathri Builder,
Represented by its Sole Proprietor
Gayathri Murugesh ... Petitioner

Vs.

1.The Commercial Tax Officer,
Avinashi, Tiruppur,
Tamil Nadu.

2.The Assistant Commissioner,
Office of the Assistant Commissioner (ST)/
Proper Officer (State Taxes),
Avinashi, Tiruppur, Tamil Nadu.

3.The Principal Commissioner of CGST &
Central Excise,
GST Bhawan, 26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the Assessment Order vide Order No.33CSYPG9026Q1ZS/2020-21 dated 12.02.2025 bearing Reference Number ZD330225117561U passed by the 2nd

Respondent and quash the same as arbitrary and illegal and consequently direct the 2nd Respondent to remove the notice of recovery under Section 79 of the TNGST Act, 2017/CGST Act, 2017 dated 14.05.2025 and remand back the matter of the 1st Respondent for re-assessment.

For Petitioner	:	Ms.R.Reka
For Respondents	:	
For R1 and R2	:	Ms.Amirta Poonkodi Dinakaran Government Advocate
For R3	:	Mr.Rajnish Pathiyil Senior Panel Counsel

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate takes notice for the 1st and 2nd Respondents and Mr.Rajnish Pathiyil, learned Senior Panel Counsel takes notice for the 3rd Respondent.

2. This Writ Petition is being disposed of at the time of admission after hearing the learned counsel for the Petitioner, learned Government Advocate for the 1st and 2nd Respondents and the learned Senior Panel Counsel for the 3rd Respondent following the consistent view taken by this Court under similar circumstances.

3. The Petitioner has challenged the impugned Assessment Order dated 12.02.2025 of the 2nd Respondent. It is preceded a Show Cause Notice in GST

DRC-01 dated 31.07.2024 and the reminders dated 23.12.2024 and 24.01.2025 and the opportunity of personal hearing vide Notices dated 30.12.2024 and 28.01.2025.

4. It is submitted by the learned counsel for the Petitioner that the Petitioner be given one chance to substantiate the case. The demand has been confirmed against the Petitioner merely because the Petitioner failed to respond to the Show Cause Notice in GST DRC-01 dated 31.07.2024.

5. The learned Government Advocate for the 1st and 2nd Respondents on the other hand would submit that this Writ Petition is devoid of merits and is liable to be dismissed in the light of the decisions rendered by the Hon'ble Supreme Court in **Singh Enterprises** Vs. **Commissioner of Central Excise**, **Jamshedpur and others**, (2008) 3 SCC 70 and in **Commissioner of Customs and Central Excise** Vs. **Hongo India Private Limited and another**, (2009) 5 SCC 791 and also in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

6. That apart, it is submitted that the Petitioner has not substantiated the case with any documents and therefore, on this count also, this Writ Petition is liable to be dismissed.

7. It is noticed that under similar circumstances, this Court has come to the rescue of the persons like the Petitioner by quashing the impugned Assessment Order on terms subject to the Petitioner depositing 25% of the disputed tax. I do not find any reason to take a different stand in this case.

8. Considering the same, the impugned Assessment Order dated 12.02.2025 is quashed and the case is remitted back to the 2nd 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 thirty (30) days from the date of receipt of a copy of this order.

9. The Petitioner shall file a reply contemporaneously to the Show Cause Notice in GST DRC-01 dated 31.07.2024 together with requisite documents to substantiate the case by treating the impugned Assessment Order dated 12.02.2025 as an addendum to the Show Cause Notice dated 31.07.2024 within a period of thirty (30) days from the date of receipt of a copy of this order.

10. In case the Petitioner complies with the above stipulated conditions, the 2nd Respondent shall proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible, preferably, within a period of

three (3) months thereafter, after hearing the Petitioner. Subject to the Petitioner complying with the above stipulated conditions, the attachment of the bank account of the Petitioner shall also stand raised.

11. In case the Petitioner fails to comply with any of the conditions stipulated above, the 2nd Respondent is at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today. Thereafter, it is for the 2nd Respondent to take steps against the Petitioner to recover the tax that has been confirmed in the impugned Assessment Order.

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

16.09.2025

Neutral Citation : Yes / No

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To:

1.The Commercial Tax Officer,
Avinashi, Tiruppur,
Tamil Nadu.

2.The Assistant Commissioner,
Office of the Assistant Commissioner (ST)/
Proper Officer (State Taxes),
Avinashi, Tiruppur, Tamil Nadu.

3.The Principal Commissioner of CGST &
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C.SARAVANAN, J.

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