IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.36721 of 2025
and
W.M.P.No.41068 and 41069 of 2025

Muthumalai Murali
Proprietor of Thirumallika Traders. ... Petitioner

Vs.

The Assistant Commissioner(ST),
Thirumullaivoyal Assessment Circle
No.32, Elephant Gate Bridge Road,
Chennai – 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent in Show Cause Notice FORM GST DRC – 01 dated 16.07.2024 and the consequential order in GSTIN:33ALIPM3558J1ZV/2023-2024 along with the summary of the order in DRC-07 dated 26.09.2024 and quash the same as illegal, arbitrary, unjust and barred by limitation.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirtha Poonkodi Dinakaran, 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. In this Writ Petition the Petitioner has challenged both the impugned Show Cause Notice in GST DRC – 01 dated 16.07.2024 and the assessment order dated 26.09.2024. The petitioner has not responded to the Notice and has thus suffered the impugned order.

4. The learned counsel for the Petitioner submits that the Show Cause Notice itself was without jurisdiction, as there are no ingredients available for invoking the extended period of limitation under Section 74 of the respective GST enactments.

5. The learned Government Advocate for the Respondent on the other hand would submit that the Writ Petition is devoid of merits and is liable to be dismissed in view of the limitation and laches.

6. I have considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondent, I am of the *prima facie* view that challenge to the impugned notice and the same is without jurisdiction is not made out. Therefore, challenge to that extent as to fail. However, it is noticed that the Petitioner has not replied to the notice and has thus suffered the impugned order dated 26.09.2024.

7. Taking note of the over all facts and circumstances of the case, to balance the interest of the parties viz., the Assessee and the Revenue, and following the consistent view taken by this Court under similar circumstances, Court is inclined to remit the case back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 50% 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.

8. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 16.07.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 26.09.2024 as an addendum to the Show Cause Notice dated 16.07.2024.

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

10. 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.

11. Needless to state, before passing any such order, the 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.

06.10.2025

Neutral Citation : Yes / No

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To:

The Assistant Commissioner(ST),
Thirumullaivoyal Assessment Circle
No.32, Elephant Gate Bridge Road,
Chennai – 600 003.

C.SARAVANAN, J.

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