IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-09-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 36532 of 2025
AND
WMP NO. 40826 OF 2025,WMP NO. 40825 OF 2025

1. G Palaniyammal Transport
Represented by its Managing Partner
Mr. Manikandan V/7, Vathiyar
Thottam, Nallagoundampatty Post,
Omalur Taluk, Salem - 636 304

Petitioner(s)

Vs

1. The Assistant Commissioner (st)
Omalur Assessment Circle, No.2-1,
15th Ward, Periya Mariamman Koil
Backside, Viswam Building, Bazzar
Road, Omalur-636 455

Respondent(s)

WMP No. 40826 of 2025

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WMP No. 40825 of 2025

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Petitioner(s)

Vs

1. The Assistant Commissioner (st)

Respondent(s)

WP No. 36532 of 2025

PRAYER

calling for the records in Reference No. ZD330125054204Y dated 07.01.2025 u/s.73 of the TNGST Act, 2017 along with a summary of the order dated 07.01.2025 in Reference No. ZD330125054204Y on the file of the Respondent relating to F.Y.2021-22 and quash the same

WMP No. 40826 of 2025

PRAYER

to grant an Order of Interim Stay of operation of the order in Reference No. ZD330125054204Y dated 07.01.2025 u/s.73 of the TNGST Act, 2017 along with a summary of the order dated 07.01.2025 in Reference No. ZD330125054204Y on the file of the Respondent relating to F.Y.2021-22

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PRAYER

to dispense with the production of original order in Reference No. ZD330125054204Y dated 07.01.2025 u/s.73 of the TNGST Act, 2017 along with a summary of the order dated 07.01.2025 in Reference No. ZD330125054204Y on the file of the Respondent relating to F.Y.2021-22.

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For Petitioner	:	Ms. Janani N
For Respondents	:	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 after hearing the learned counsel for the Petitioner and learned Government Advocate for the Respondent following the consistent view taken by this Court under similar circumstances.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 07.01.2025 passed under Section 73 of the respective GST enactments. The impugned order was preceded by a notice in DRC-01 dated 29.05.2024 for the tax period between April 2021 and March 2022.

4. The Petitioner had requested for time for giving reply twice. However, the petitioner failed to file a reply within the time and thus, suffered the impugned order dated 07.01.2025.

5. The learned counsel for the Petitioner submits that the Petitioner has a fair case to succeed. The learned counsel for the Petitioner further submits that as against the demand amount of Rs.69,73,942/- towards various taxes and cess payable by the petitioner, an amount of Rs.6,86,594/- has been recovered from the petitioner's electronic cash register i.e., Rs.3,43,297/- each towards CGST and SGST.

6. The learned Government Advocate for the Respondent on the other hand, however, would submit that this Writ Petition is liable to be dismissed as the petitioner has neither responded to the impugned order nor has responded to the notice that was preceded by the impugned order. That apart, it is submitted that the petitioner has also left over the right to file any appeal and thus, this writ petition is liable to be dismissed in the light of the decisions of 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.

7. Having considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondent and having considered the consistent view taken by this Court under similar circumstances, this Court is inclined to dispose of this writ petition 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.

8. The amounts if any recovered from the petitioner towards the aforesaid tax liability shall be adjusted towards 25% as directed above to be deposited by the petitioner within such time.

9. The Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 29.05.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 07.01.2025 as an addendum to the Show Cause Notice dated 29.05.2024 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 Respondent shall proceed to pass a fresh order *de novo* on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months thereafter.

11. In case the Petitioner fails to comply with any of the conditions stipulated above, the 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 Respondent to take steps against the Petitioner to recover the tax which has been confirmed in the impugned Assessment Order.

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

13. It is made clear that the Petitioner shall co-operate with the Respondent in the *de novo* proceedings.

14. Fresh assessment in the *de novo* proceedings shall be made without getting influenced by any of the observations, which preceded the Show Cause Notice in GST DRC-01 dated 29.04.2024.

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

24-09-2025

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

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C.SARAVANAN J.

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