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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.37152 of 2025
and
W.M.P.Nos.41582 and 41585 of 2025

Tvl.Sri Thirupathy Enterprises,
Represented by its Proprietrix
Nagooran Sarala ... Petitioner

Vs.

The Assistant Commissioner (ST),
Choolai Assessment Circle,
No.10, Greams Road,
Palaniappa Maligai,
Chennai – 600 006. ... 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 herein in impugned order having Reference No.ZD3312232201833 dated 27.12.2023 passed under Section 73 of the Tamil Nadu Goods and Services Tax Act, 2018 read with Central Goods and Services Tax Act, 2017 hereinafter referred to as GST Act, 2017 and quash the same as arbitrary, unjust and illegal.

For Petitioner : Ms.T.Yazhini

For Respondent : Mrs.K.Vasanthamala
Government Advocate

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ORDER

Mrs.K.Vasanthamala, 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 the impugned Order dated 27.12.2023 which was preceded by a Show Cause Notice in GST DRC-01 dated 12.09.2023 and the Petitioner was called upon to appear for personal hearing.

4. The Petitioner was also issued with Reminders on 26.10.2023, 21.11.2023 and 27.11.2023, called upon to file a reply and to appear for a personal hearing. On receiving the same, the Petitioner neither filed any reply nor appeared for the personal hearing fixed on 02.11.2023, 28.11.2023 and on 04.12.2023. The limitation for filing an appeal under Section 107 of the respective GST enactments, 2017 has also expired.

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

6. However, considering the impugned Order dated 27.12.2023 was passed for the Tax Period between July, 2017 and March, 2018, in order to balance the interest of both parties viz., the assessee and the revenue, the case is remitted back to the Respondent to pass a fresh order 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.

7. The Petitioner shall contemporaneously file a reply to the Show Cause Notice in GST DRC-01 dated 12.09.2023 together with requisite documents to substantiate the case by treating the impugned Order dated 27.12.2023 as an addendum to the Show Cause Notice dated 12.09.2023 within a period of thirty (30) days from the date of receipt of a copy of this order.

8. It is stated by the learned counsel for the Petitioner that a sum of

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Rs.5,78,545/- has already been recovered over a period of time. The submission of the learned counsel for the Petitioner appears to be reasonable. Therefore, the amount already recovered shall be adjusted towards deposit of 50% of the disputed tax as ordered above, subject to verification.

9. Subject to the Petitioner complying with the above stipulated condition, 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 thereafter.

10. In case the Petitioner fails to comply with any of the conditions stipulated above, 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. It is made clear that recovery of 50% of the disputed tax ordered

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above pertains only to the impugned Order dated 27.12.2023.

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

07.10.2025

Neutral Citation : Yes / No

arb

<u>To</u>:

The Assistant Commissioner (ST),
Choolai Assessment Circle,
No.10, Greams Road,
Palaniappa Maligai,
Chennai – 600 006.

<u>C.SARAVANAN, J.</u>

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