IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-09-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 36540 of 2025
AND
WP NO. 36546 OF 2025,WMP NO. 40846 OF 2025,WMP NO. 40848 OF 2025,WMP NO. 40850 OF 2025,WMP NO. 40852 OF 2025

1. G Palaniyammal Transport
Represented by its Managing Partner
Mr. Manikandan V/7, Vathiyar
Thottam, Nallagoundampatty Post,
Omalur Taluk, Salem - 636304

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)

WP No. 36546 of 2025

1. G Palaniyammal Transport
Represented by its Managing Partner
Mr. Manikandan V/7, Vathiyar
Thottam, Nallagoundampatty Post,
Omalur Taluk, Salem - 636304

Petitioner(s)

Vs

1. The Assistant Commissioner (ST)

Respondent(s)

WMP No. 40846 of 2025

1. G Palaniyammal Transport
Represented by its Managing Partner
Mr. Manikandan V/7, Vathiyar
Thottam, Nallagoundampatty Post,
Omalur Taluk, Salem - 636304

Petitioner(s)

Vs

1. The Assistant Commissioner (st)

Respondent(s)

WMP No. 40848 of 2025

1. G Palaniyammal Transport
Represented by its Managing Partner
Mr. Manikandan V/7, Vathiyar
Thottam, Nallagoundampatty Post,
Omalur Taluk, Salem - 636304

Petitioner(s)

Vs

1. The Assistant Commissioner (ST)

Respondent(s)

WMP No. 40850 of 2025

1. G Palaniyammal Transport
Represented by its Managing Partner
Mr. Manikandan V/7, Vathiyar
Thottam, Nallagoundampatty Post,
Omalur Taluk, Salem - 636304

Petitioner(s)

Vs

1. The Assistant Commissioner (st)

Respondent(s)

WMP No. 40852 of 2025

1. G Palaniyammal Transport
Represented by its Managing Partner
Mr. Manikandan V/7, Vathiyar
Thottam, Nallagoundampatty Post,
Omalur Taluk, Salem - 636304

Petitioner(s)

Vs

1. The Assistant Commissioner (ST)

Respondent(s)

WP No. 36540 of 2025

PRAYER

calling for the records in Reference No. ZD330125046874F 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. ZD330125046874F on the file of the Respondent relating to F.Y.2020-21 and quash the same

WP No. 36546 of 2025

PRAYER

calling for the records in Reference No. ZD330225177897X dated 18.02.2025 u/s.73 of the TNGST Act, 2017 along with a summary of the order dated 18.02.2025 in Reference No. ZD330225177897X on the file of the Respondent relating to F.Y.2020-21 and quash the same.

WMP No. 40846 of 2025

PRAYER

to dispense with the production of original order in Reference No. ZD330125046874F 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. ZD330125046874F on the file of the Respondent relating to F.Y.2020-21.

WMP No. 40848 of 2025

PRAYER

to grant an Order of Interim Stay of operation of the order in Reference No. ZD330125046874F 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. ZD330125046874F on the file of the Respondent relating to F.Y.2020-21.

WMP No. 40850 of 2025

PRAYER

to dispense with the production of original order in Reference No. ZD330225177897X dated 18.02.2025 u/s.73 of the TNGST Act, 2017 along with a summary of the order dated 18.02.2025 in Reference No. ZD330225177897X on the file of the Respondent relating to F.Y.2020-21.

WMP No. 40852 of 2025

PRAYER

to grant an Order of Interim Stay of operation of the order in Reference No. ZD330225177897X dated 18.02.2025 u/s.73 of the TNGST Act, 2017 along with a summary of the order dated 18.02.2025 in Reference No. ZD330225177897X on the file of the Respondent relating to F.Y.2020-21

WP No. 36540 of 2025

For Petitioner : Ms. Janani N

For Respondents : Ms. Amirtha Poonkodi Dinakaran
Government Advocate

COMMON ORDER

Ms. Amirtha Poonkodi Dinakaran, learned Government Advocate takes notice for the Respondent.

2. By this common order, these Writ Petitions are 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 these Writ Petitions, the Petitioner has challenged the respective impugned orders passed under Section 73 of the respective GST enactments dated 07.01.2025 and 18.02.2025 pursuant to Show Cause Notices in GST DRC-01 dated 29.05.2024 and 18.11.2024 for the Tax Period between April 2020 and March 2021. Both arised out of mismatch between GSTR-1, 2A and 3B and on account of ITC claimed on the supplies made by the cancelled

dealers.

4. It is informed by the petitioner that as on 02.09.2025 a sum of Rs.11,94,493/- has been recovered from the petitioner's electronic cash register.

5. It is noticed that the petitioner was issued with notices in DRC-01. The petitioner, however, failed to file any reply though the petitioner sought repeatedly time for filing reply. However, the petitioner failed to file any reply.

6. The learned Government Advocate for the Respondent on the other hand would submit that these Writ Petitions are devoid of merits and are liable to be dismissed as the impugned orders dated 07.01.2025 and 18.02.2025 have been challenged long after the expiry of the limitation prescribed under Section 107 of the respective GST enactments and 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 following the consistent view taken by this Court under similar circumstances, these writ petitions are disposes of by remitting the cases back to the Respondent to pass a fresh orders *de novo* 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, which are stated to have been recovered on 02.09.2025 will be subject to verification and shall be set-off for the purpose of reckoning aforesaid 25% of the amount, as ordered to be pre-deposited from the petitioner's electronic cash register.

9. The Petitioner shall file a consolidated reply for each of the Show Cause Notices in GST DRC-01 together with requisite documents to substantiate the case by treating the respective impugned orders dated 07.01.2025 and 18.02.2025 as addendum to the Show Cause Notices dated 29.05.2024 and 18.11.2024 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 these Writ Petitions were dismissed *in limine* today. It is for the Respondent to take steps against the Petitioner to recover the tax that has been confirmed in the impugned 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 Notices in GST DRC-01 dated 29.05.2024 and 18.11.2024.

15. These Writ Petitions stand 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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WP No. 36546 of 2025

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1.The Assistant Commissioner (ST)

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C.SARAVANAN J.

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