IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.37856 of 2024
and
W.M.P.Nos.40925 and 40926 of 2024

Tvl.M.Vellaiyan & Co.
Represented by the its Partner,
Mr.Vellaian Mathiyan,
No.1/94, Old No.1/77,
Chinna Naduppathy,
Sikkanampatty Post,
Omalur, Salem, Tamil Nadu – 636 309.

... Petitioner

Vs.

State Tax Officer,
Data Analytics Unit – II,
Integrated Commercial Taxes Building,
Room No:201, 2nd floor, Pitchards Road,
Hasthampatty, Salem, Tamil Nadu – 636 007.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order dated 19.06.2024 with the reference ZD330624173102S/2022-23 on the file of the respondent, quash the same, as manifestly arbitrary, without jurisdiction, void, contrary and violation of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner : Mr.S.Ramamurthy
for Mr.N.Murali

For Respondent : Mr.TNC.Kaushik
Additional Government Pleader

ORDER

This case was listed along with a batch of matters challenging the proceedings initiated under Section 74 of the respective GST enactments.

2. In this writ petition, the petitioner has challenged the order dated 19.06.2024 passed by the respondent in Form GST DRC - 07 for the tax period 2022-2023. The impugned order was preceded by a Show Cause Notice in Form GST DRC-01 dated 06.05.2024. However, the petitioner failed to file a reply to the Show Cause Notice and thus, suffered the impugned order dated 19.06.2024.

3. The learned counsel for the petitioner submits that although the impugned order was passed in the absence of a reply from the petitioner, the order is nevertheless arbitrary, as the demand is based on the value of concrete mixers, despite having no evidence or information available with the respondent to suggest that the petitioner had traded such concrete mixers.

4. It is further submitted that part of the demand pertains to the change in rate of tax from 12% to 18% for government works contract vide **Notification No.15/2021-Central Tax (Rate)** dated **18.11.2021**, with effect from 01.01.2022. The petitioner failed to notice the change in the rate of tax, and upon being pointed out, a sum of Rs.9,08,522/- was demanded which was paid on 10.04.2023, i.e., at least 13 months prior to the issuance of the show cause notice in DRC-01 dated 06.05.2024 .

5. It is also further submitted by the learned counsel for the petitioner that no case has been made out for invoking Section 74 of the respective GST enactments and therefore the impugned proceedings initiated under Section 74 of the GST enactments are liable to be quashed.

6. The petitioner appears to have made out a *prima facie* case for interference with the impugned order. However, the fact remains that the petitioner did not file a reply to the Show Cause Notice in DRC - 01, resulting in the impugned order being passed.

7. Considering the same, without expressing any opinion on the merits of the case, the impugned order dated 19.06.2024 is quashed, and the case is remitted back to the Respondent to pass a fresh order, subject to the Petitioner filing a reply to the Show Cause Notice in Form GST DRC-01 dated 06.05.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 19.06.2024 as an addendum to the Show Cause Notice dated 06.05.2024, within a period of thirty (30) days from the date of receipt of a copy of this order.

8. In case the Petitioner complies with above the stipulation, 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.

9. In case the Petitioner fails to comply with the above stipulation, 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.

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

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

26.11.2025

Index : Yes/No
Neutral Citation : Yes/No

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To:

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C.SARAVANAN, J.

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