



WEB COPY

WP No. 36789 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-09-2025

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THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 36789 of 2025

AND

WMP NO. 41151 OF 2025, WMP NO. 41152 OF 2025

1. Krishnasamy Gunasekaran

Sole proprietor of K. Gunasekaran

Maligai, Son of Krishnasamy, 15/1-23,

Raja Street, Kolathur, Salem - 636303

Petitioner(s)

Vs

1. The Deputy State Tax Officer-1, (ST)

Mettur Assessment Circle, Chemplast

Sanmar Ltd., Plant i premises, Mettur

Dam RS. Salem-636 040

Respondent(s)

PRAYER

calling for the records in Reference No. ZD3304250884648 dated 09.04.2025 u/s.74 of the TNGST Act, 2017 along with a summary of the order dated 09.04.2025 in Reference No.ZD3304250884648 on the file of the Respondent relating to F.Y.2023-24 and quash the same

For Petitioner : Ms. Janani N

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 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 Assessment Order dated 09.04.2025 pursuant to a Show Cause Notice in GST DRC-01 dated 18.11.2024 for the Tax Period between April 2023 and March 2024.

4. The Petitioner has approached this Court long after the expiry of the limitation period prescribed both for filing an appeal against the impugned Assessment Order dated 09.04.2025 and to rectify the same under Section 161



of the respective GST enactments.

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5. Reading of the impugned Assessment Order dated 09.04.2025 indicates that the Petitioner has not participated in the assessment proceedings by filing a reply to the Show Cause Notice in GST DRC-01 dated 18.11.2024 and therefore, the demand has been confirmed against the Petitioner.

6. It is submitted by the learned counsel for the Petitioner that the Petitioner be given one chance to substantiate the case. The demand has been confirmed against the Petitioner merely because the Petitioner failed to respond to the Show Cause Notice in GST DRC-01 dated 18.11.2024.

7. The learned Government Advocate for the Respondent on the other hand would submit that this Writ Petition is devoid of merits and 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.***

8. That apart, it is submitted that the Petitioner has not substantiated the case with any documents and therefore, on this count also, this Writ Petition is liable to be dismissed.

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

10. 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, the impugned Assessment Order dated 09.04.2025 is quashed and the case is remitted back to the Respondent to pass a fresh order *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. Any amount, deposited earlier, shall be set-off / adjusted towards the 25% of the pre-deposit condition as stipulated above.

11. The Petitioner shall file a reply to the Show Cause Notice in GST DRC-01 dated 18.11.2024 together with requisite documents to substantiate the case by treating the impugned Assessment Order dated 09.04.2025 as an addendum to the Show Cause Notice dated 18.11.2024 within a period of thirty (30) days from the date of receipt of a copy of this order.

12. 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. Since it is the case of the petitioner that the petitioner has not received the detailed show cause notice, the respondent is directed to serve a copy of the detailed show cause notice to the petitioner



within a period of 15 days from the date of receipt of a copy of this order.

Subject to the petitioner complying with the above stipulated conditions, the attachment of the bank account of the petitioner shall also stand raised, if any.

13. 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. It is for the Respondent to take steps against the Petitioner to recover the tax that has been confirmed in the impugned Assessment Order.

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

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

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

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.The Deputy State Tax Officer-1, (ST)
Mettur Assessment Circle, Chemplast
Sanmar Ltd., Plant i premises, Mettur
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C.SARAVANAN J.

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