IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-09-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 37014 of 2025
AND
WP NO. 37022 OF 2025,WMP NO. 41390 OF 2025,WMP NO. 41392 OF 2025,WMP NO. 41403 OF 2025

1. Tvl BMH Engineering
(Rep by its Proprietrix, Haritha), 83/23,
Chetty Street, Ayanavaram, Chennai,
Tamil Nadu 600 023.

Petitioner(s)

Vs

1. The Deputy State Tax Officer
Ayanavaram Assessment Circle, F/50,
Third Floor, First Avenue, Anna Nagar,
(east), Chennai-600 102

2.The Deputy Commissioner ST
GST - Appeal, Chennai I,2nd Floor,
Greams Road, Chennai 600 006.

Respondent(s)

WP No. 37022 of 2025

1. Tvl BMH Engineering

Petitioner(s)

Vs

1. The Deputy State Tax Officer
Ayanavaram Assessment Circle, F/50,
Third Floor, First Avenue, Anna
Nagar, (east), Chennai-600 102

2.The Deputy Commissioner ST
GST - Appeal, Chennai I,2nd Floor,
Greams Road, Chennai 600 006.

Respondent(s)

WMP No. 41390 of 2025

1. Tvl BMH Engineering

Petitioner(s)

Vs

1. The Deputy State Tax Officer
Ayanavaram Assessment Circle, F/50,
Third Floor, First Avenue, Anna
Nagar, (east), Chennai-600 102

2.The Deputy Commissioner ST
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Respondent(s)

WMP No. 41392 of 2025

1. Tvl BMH Engineering

Petitioner(s)

Vs

1. The Deputy State Tax Officer
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Nagar, (east), Chennai-600 102

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Respondent(s)

WMP No. 41403 of 2025

1. Tvl BMH Engineering

Petitioner(s)

Vs

1. The Deputy State Tax Officer
Ayanavaram Assessment Circle, F/50,
Third Floor, First Avenue, Anna
Nagar, (east), Chennai-600 102

2.The Deputy Commissioner ST
GST - Appeal, Chennai I,2nd Floor,
Greams Road, Chennai 600 006.

Respondent(s)

WP No. 37014 of 2025

PRAYER

calling for the records on the files of the 1st Respondent herein in his proceeding in FORM GST DRC -07 with Reference No. ZD330523120780T dated 25.05.2023 along with detailed order in GSTIN. 33AIAPH5104Q2ZD / 2018-19 dated 25.05.2023 for the tax period APR 2018 - MAR 2019 and quash the same

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PRAYER

calling for the records on the files of the 2nd Respondent herein in Rc.No.2341/2025/A1 dated 04.09.2025 and quash the same while directing the 2nd Respondent herein to re-dispose the appeal filed by the Petitioners on 03.01.2024 vide FORM GST APL-01 after hearing it on merits

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PRAYER

to dispense with the production of the original of the impugned order in FORM GST DRC - 07 with Reference No. ZD330523120780T dated 25.05.2023 along with detailed order in GSTIN 33AIAPH5104Q2ZD / 2018-19 dated 25.05.2023 for the tax period APR 2018 - MAR 2019, issued by the 1st Respondent, in lieu of a clean xerox copy thereof

WMP No. 41392 of 2025

PRAYER

to stay all further recovery proceedings of the 1st Respondent herein pursuant to his order in FORM GST DRC- 07 with Reference No. ZD330523120780T dated 25.05.2023 along with detailed order in GSTIN 33AIAPH5104Q2ZD / 2018-19 dated 25.05.2023 for the tax period APR 2018 - MAR 2019, pending disposal of the present writ petition

WMP No. 41403 of 2025

PRAYER

to dispense with the production of the original of the impugned order in Rc.No.2341/2025/A1 dated 04.09.2025 issued by the 2nd Respondent in lieu of a clean xerox copy thereof

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For Petitioner(s): B Syed Abdul Wakeel
T.Suresh
M.Rajkumar
M.Mohamadhu Ajar

For Respondent: Mr. V. Prashanth Kiran

Government Advocate

COMMON ORDER

Mr. V. Prashanth Kiran, learned Government Advocate takes notice for the Respondents.

2. By this Common Order, both the Writ Petitions are being disposed of at the time of admission after hearing the learned counsel for the Petitioner and learned Additional Government Pleader for the Respondents, following the consistent view taken by this Court under similar circumstances.

3.In these Writ Petitions, the Petitioner has challenged the impugned Order dated 25.02.2023 passed by the 1st respondent, which is the subject matter of challenge in W.P.No.37014 of 2025 and the impugned Order dated 04.09.2025 of the 2nd respondent, whereby the appeal of the Petitioner against the aforesaid Order dated 25.02.2023 has been rejected, which is the subject matter of challenge in W.P.No.37022 of 2025.

4. The case of the petitioner is that the petitioner was unaware of the Show Cause Notice in GST DRC-01 dated 24.03.2023 issued for the Tax Period between April 2018 and March 2019 and has suffered the exparte order on 25.05.2023.

5. It is the further case of the petitioner that the petitioner has suffered by the impugned order, which was communicated in the web portal and the petitioner came to know about the same only recently, when the Department initiated recovery proceedings as against the petitioner.

6. The learned counsel for the petitioner submits that the petitioner has deposited 90% of the tax demanded. That apart, it is submitted that the petitioner has also filed an appeal before the second respondent / Deputy Commissioner (ST), GST Appeal, Chennai on 03.01.2024 and had deposited 10% of the tax demanded as required under Section 107 of the respective GST enactments and thus, in all put together, the petitioner has deposited 100% of the disputed tax.

7. It is noticed that there was a delay of 100 days in filing the appeal before the second respondent / appellate authority and therefore, the second respondent / appellate authority has dismissed the appeal vide order dated 04.09.2025. Therefore, no fault got attributed on the appellate authority / second respondent, who has passed the rejection order dated 04.09.2025 and it does not warrant any interference.

8. 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 as the Petitioner has not substantiated the case with any documents.

9. It is noticed that under similar circumstances, this Court has come to the rescue of the persons like the Petitioner by quashing the impugned Assessment Order on terms subject to the Petitioner depositing 100% 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 in similar circumstances and having considered the fact that the petitioner has not replied to the show cause notice dated 24.03.2023, which is culminated in the impugned order dated 25.05.2023 and considering the fact that the petitioner claims to have deposited 90% of the disputed tax voluntarily and 10% of the disputed tax at the stage of filing of appeal before the second respondent / appellate authority, this Court is inclined to come to the partial rescue of the Petitioner by quashing the impugned Order dated 25.05.2023 of the 1st respondent and the impugned Order dated 04.09.2025 of the 2nd respondent and remitting the case back to the first Respondent to pass a fresh order *de novo,* subject to verification that the petitioner has deposited 90% of the disputed tax over and above the 10% of the disputed tax, which was filed at the time of filing of appeal before the second respondent / appellate authority.

11. The Petitioner shall file a reply contemporaneously to the Show Cause Notice in GST DRC-01 dated 24.03.2023 together with requisite documents to

substantiate the case by treating the impugned Assessment Order dated 25.05.2023 as an addendum to the Show Cause Notice dated 24.03.2023 within a period of thirty (30) days from the date of receipt of a copy of this order.

12. In case no tax had been paid by the petitioner, the petitioner shall deposit 90% 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.

13. 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.

14. 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 that has been confirmed in the impugned Assessment Order.

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

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

17. These Writ Petition stand disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

26-09-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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WP No. 37014 of 2025

To

1.The Deputy State Tax Officer
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Third Floor, First Avenue, Anna Nagar,
(east), Chennai-600 102

2.The Deputy Commissioner ST
GST - Appeal, Chennai I,2nd Floor,
Greams Road, Chennai 600 006.

WP No. 37022 of 2025

To

1.The Deputy State Tax Officer
Ayanavaram Assessment Circle, F/50,
Third Floor, First Avenue, Anna
Nagar, (east), Chennai-600 102

2.The Deputy Commissioner ST
GST - Appeal, Chennai I,2nd Floor,
Greams Road, Chennai 600 006.

WMP No. 41390 of 2025

To

1.The Deputy State Tax Officer
Ayanavaram Assessment Circle, F/50,
Third Floor, First Avenue, Anna
Nagar, (east), Chennai-600 102

2.The Deputy Commissioner ST
GST - Appeal, Chennai I,2nd Floor,
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WMP No. 41392 of 2025

To

1.The Deputy State Tax Officer
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Nagar, (east), Chennai-600 102

2.The Deputy Commissioner ST
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WMP No. 41403 of 2025

To

1.The Deputy State Tax Officer
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Third Floor, First Avenue, Anna
Nagar, (east), Chennai-600 102

2.The Deputy Commissioner ST
GST - Appeal, Chennai I,2nd Floor,
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C.SARAVANAN J.

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