IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.11.2025

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THE HONOURABLE MR JUSTICE C.SARAVANAN

W.P.No.37046 of 2025
and
W.M.P.Nos.41435, 41437 & 41438 of 2025

M/s.R.J.Construction,
Represented by Proprietor,
R.Jayabalan .. Petitioner

Vs.

1.The Assistant Commissioner (ST)
Villupuram-II Assessment Circle,
Commercial Taxes Building,
Integrated Master Plan Complex,
Villupuram – 605 602.

2. The Commercial Tax Officer,
TNZ033, Admn.State,
Villupuram-II Assessment Circle,
Commercial Taxes Building,
Integrated Master Plan Complex,
Villupuram – 605 602. .. Respondents

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the case from the file of the first respondent relating to the impugned show cause notice in Form GST DRC-01 in Reference No.ZD330125050753P in GSTIN/ID

33ACTPJ3939Q1ZR dated 07.01.2025 issued for F.Y 2024-25 and quash the same.

For Petitioner : Mr.R.Ananth

For Respondents : Mr.C.Harsharaj,
Special Government Pleader

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ORDER

This case is listed today under the caption "For Clarification" after the case was disposed of on 26.09.2025 with the following observations:-

> 1) …
>
> 2) …
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> **3) Having heard the learned counsel for the Petitioner and the learned Special Government Pleader for the Respondents, this Court does not find any merit to entertain this Writ Petition. Accordingly, this Writ Petition is dismissed.**
>
> **4) Since the Petitioner has already filed a Reply on 18.03.2025, the Respondents shall proceed to pass appropriate orders on merits after hearing the Petitioner. Insofar as blocking of the credit is concerned, it is for the Petitioner to send appropriate details for unblocking the crdit that was blocked on 09.11.2024. No costs. Connected Writ Miscellaneous Petitions are closed.**

2. However, while finalizing the final order dated 26.09.2025 a doubt arose warranting for the case to be listed again under the same caption " For Clarification".

3. The specific case of the Petitioner is that the impugned Show Cause Notice dated 07.01.2025 issued in Form GST DRC-01 under Section 74 of the respective GST Enactments for the Tax Period from April 2024 to December 2024 is without jurisdiction in the light of statutory intervention by insertion of Section 74-A to the respective GST Enactments.

4. The learned counsel for the Petitioner submits that as per clause (2) of Section 74-A, the Proper Officer shall issue a Notice under Section 74-A(2) within 42 months from the due date for furnishing the Annual Return for the Financial Year to which the tax not paid, short paid, or wrongly availed or utilized relates, or within 42 months from the date of the erroneous period.

5. The learned counsel for the Petitioner further submits that the due date for filing the Annual Return for the tax period from April 2024 to December 2024, failing within the Financial Year 2024-2025, will expire only on 31.12.2025 in terms of Rule 80(1) of the respective GST Rules. It is therefore submitted that the proposal to impose a penalty under Section 74 is premature.

6. It is therefore submitted by the learned counsel for the petitioner that in the light of the above amendment with the insertion of Section 74-A of the respective GST enactments, the proceedings are liable to be declared as both premature and contraty to law.

7. It is further submitted that even if there are any mistakes in the monthly returns filed by the petitioner, the petitioner has sufficient time to rectify the same at the time of filing of the Annual Return, as contemplated under Section 44 of the respective GST Enactments read with Rule 80 of the respective GST Rules.

8. On the other hand, the learned Special Government Pleader for the Respondents submits that there is a typographical error in the impugned Show Cause Notice dated 07.01.2025. In this regard, the learned Special Government Pleader for the Respondents places reliance on Section 160(1) of the respective GST enactments.

9. Accordingly, the learned Special Government Pleader for the Respondents submits that the Writ Petition, in any event, is premature and it

is open to the Respondents to pass appropriate orders after considering the submissions to be made by the Petitioner. Therefore, it is submitted that the Writ Petition is liable to be dismissed as premature.

10. Having considered the submissions made by the learned counsel for the Petitioner and the learned Special Government Pleader for the Respondents, the challenge to the impugned Show Cause Notice on the said grounds is without merit, at this stage and the same cannot be countenanced.

11. As per Section 160(1) of the respective GST Enactments, no assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

12. It is always open to the Petitioner to make appropriate submission before the Respondents that the entire assessment proceedings initiated was unwarranted in the light of Seciton 74-A(2) of the respective GST Enactments.

13. Further, under Section 74-A(8) of the respective GST Enactments, the proceedings will be deemed to be concluded or dropped, if any shortfall in payment of tax is duly addressed.

14. The Petitioner has already addressed this aspect vide Reply dated 18.03.2025 in Form GST DRC-06 to the impugned Show Cause Notice. Therefore, the Petitioner should have awaited for an assessment order to be passed by the Respondents for the said tax period pursuant to the impugned Show Cause Notice and the reply filed by the Petitioner.

15. Since the Petitioner has already filed a reply on 18.03.2025, the 1st Respondent is directed to pass appropriate orders on merits after hearing the Petitioner as expeditiously as possible.

16. Insofar as blocking of the credit is concerned, it is for the Petitioner to sent appropriate representation for unblocking the credit that was blocked on 09.11.2024 for appropriate order to be passed under Rule 86A(2) of the respective GST Rules.

17. This Writ petition is therefore dismissed with the above liberty. No costs. Connected Writ Miscellaneious Petitions are closed.

06.11.2025

Neutral Citation : Yes / No
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To

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