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W.P. No.38462 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No.38462 of 2025

and

W.M.P. Nos.42988 and 42990 of 2025

M/s.S.M.Paints
No.10/91, Pillaiyar Koil Street,
Maduvanakari, Guindy,
Chennai-600 032.

... Petitioner

Vs.

1.Joint Commissioner (in-situ),
Thyagaraya Nagar Division,
Chennai South Commissionerate,
692, M.H.U. Complex, Anna Salai,
Nandanam, Chennai-35.

2.The Deputy Commissioner of CGST & Central Excise,
Thyagaraya Nagar Division,
Chennai South Commissionerate,
692, M.H.U. Complex, Anna Salai,
Nandanam, Chennai-35.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 1st respondent herein in impugned order passed in order-in-original No.06/2023-ST-AC/DC in C.No.DIN:20230259TL0000111EB5 dated 03.02.2023 and quash the same.



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For Petitioner(s) : Ms.G.Vardini Karthik
For Respondent(s) : Mr.G.Meganathan
Junior Standing Counsel
Mr.G.Gurumoorthy
Senior Standing Counsel

ORDER

Mr.G.Meganathan, learned Junior Standing Counsel and Mr.G.Gurumoorthy, learned Senior Standing Counsel takes notice for Respondents.

2. Heard the learned counsel for the petitioner, learned counsels appearing for Respondents.

3. In this Writ Petition, the petitioner has challenged the impugned Order-in-Original No.06/2023 ST-AC (DC) dated 03.02.2023 passed by the 1st Respondent.

4. Vide impugned order, the demand that was proposed in Show Cause Notice No.10/2022-ST dated 28.04.2022 was confirmed. Instead of filing a statutory appeal under Section 85 of the Finance Act, 1994, the Petitioner filed a Rectification Application under Section 74 of the Finance Act, 1994, which has



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not been disposed of till date.

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5. Learned counsel for petitioner submitted that the petitioner's case squarely falls within the purview of Section 74(3)(b) of the Finance Act, 1994 and therefore the impugned Order-in-Original No.10/2022-ST dated 28.04.2022, is liable to be set aside, as the limitation for passing an order under subsection(1) of the said Act, has expired for no fault of the petitioner. Hence, the petitioner is before this Court for quashing the impugned Order-in-Original.

6. On the other hand, learned counsels for the Respondents would submit that Rectification Petition that was filed under Section 74 of the Finance Act, 1994 on 02.04.2024 was an after thought and was filed indeed to get over the limitation under Section 85 of the Finance Act, 1994, to prolong the litigation and submits that the Writ Petition ought to be dismissed.

7. With the consent of learned counsel for petitioner and the learned counsel for Respondents, this Writ Petition is disposed of by directing the 1st Respondent to dispose of the Rectification Petition dated 02.04.2024, subject to the Petitioner depositing 25% of the disputed tax within a period of thirty (30) days from the date of receipt of a copy of this order.



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8. Subject to the Petitioner complying with the above stipulated conditions, the 1st Respondent shall proceed to pass appropriate orders on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months thereafter.

9. In case the Petitioner fails to comply with any of the conditions stipulated above, the 1st 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, the 1st Respondent shall provide opportunity of hearing to the Petitioner before passing any order. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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C. SARAVANAN, J.

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