IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 13-10-2025**

CORAM

**THE HONOURABLE MR JUSTICE C. SARAVANAN**

**WP No. 38409 of 2025**
**AND**
**WMP NO. 42938 OF 2025,WMP NO. 42939 OF 2025**

1. Dj Constructions
Rep by its Partner 220, Valarmathi
Buildings, Avarampalayam Road,
Coimbatore 641044

Petitioner(s)

Vs

1. The Assistant Commissioner (ST)
P.N. Palayam Assessment Circle,
Coimbatore Division, Coimbatore 641
044

Respondent(s)

**PRAYER**

calling for the records of the respondent in the impugned order in GST-DRC-07 dated 28.12.2023 bearing reference number ZD3312232331234 passed by the Respondent and quash the same and pass such other orders as may be deemed fit and proper in the circumstances of the case and render justice.

For Petitioner : Mr. V. Veeraraghavan

For Respondent: Mrs. P. Selvi
Government Advocate

**ORDER**

Mrs. P. Selvi, 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 28.12.2023 passed under Section 73 of the respective GST enactments. The impugned order has also preceded a Show Cause Notice in GST DRC-01 dated 24.09.2023 for the Tax Period between July 2017 and March 2018. The petitioner, however, failed to respond to the same and thus, the impugned order has been passed.

4. The learned counsel for the petitioner would submit that the dispute pertains to the tax period between July 2017 and March 2018 and the limitation under Section 73 of the respective GST enactments expired on 07.02.2023 and therefore, it is submitted that both the notice in GST DRC-01 dated 24.09.2023 and the impugned order dated 28.12.2023 were without jurisdiction under Section 73 of the respective GST enactments.

5. The learned Government Advocate for the Respondent on the other hand would submit that the demand that was confirmed vide impugned order dated 28.12.2023 is perfectly in line with the extensions granted from time to time in view of the out-break of Covid-19 pandemic.

6. Both the learned counsel for the petitioner and the respondent, rely upon the decision of this Court in **M/s.Tata Play Limited Represented by its Authorized Signatory and Others Vs. Union of India, State of Tamil Nadu, Commercial Taxes Department, Commissioner of GST & Central Excise, Additional Commissioner, Office of the Additional Commissioner of GST**

**and Central Excise, Central Board of Indirect Taxes and Customs, New Delhi and Others** dated 12.06.2025 in W.P. Nos.17184 of 2024, etc., batch.

7. Reading of the aforesaid decision of this Court indicates that the submissions of the petitioner that the proceedings were beyond the limitation, is incorrect. The conclusion of the Court reads as under:

*" 10. Conclusion:*

*i) The authorities under the CGST Act shall have the benefit of exclusion of the period 15.03.2020 to 28.02.2022, while reckoning limitation under sub section (2) and (10) to Section 73 of CGST Act, in terms of the of the Supreme Court dated 10.01.2022 passed under Article 142 of the Constitution.*

*(ii) Notification Nos.9 and 56 of 2023 stands vitiated and illegal for the following reasons:*

*a) It results in diminishing/curtailing the limitation which was otherwise available in view of the order of the Hon'ble Supreme Court under Article 142 of Constitution, and thus contrary to the object of Section 168A of CGST Act.*

*b) It proceeds on an erroneous assumption of the limitation available and a misconception as to the scope and effect of the order of Hon'ble Supreme Court under Article 142 of Constitution. The impugned notification made on an erroneous assumption of the* *position in law is unsustainable on the ground of being arbitrary.*

*c) The impugned notification results in extinguishing vested right of action with the authorities under CGST Act by diminishing the limitation thus suffers from the vice of arbitrariness.*

*d) The impugned notification is issued on the basis of recommendation made without examining relevant materials discussed supra and thus stands vitiated.*

*e) In addition to the above reasons, impugned notification No.56/2023 is made even prior to the recommendations of the GST Council, failure to comply with the statutory mandate renders the notification illegal.*

*f) The impugned notification no.56/2023 is issued on the basis of the recommendations of GIC which cannot be a substitute for GST Council and thus stands vitiated.*

*11. ...*

***12.** In light of the present order, this Court is inclined to remand all the matters back to the assessing authority for passing orders afresh:*

*i. In case challenge is to the order of assessment/adjudication, petitioners shall treat the impugned orders as show cause notice and submit their objections within a period of 8 weeks from the date of* *uploading of the Web Copy of this order and the authorities shall proceed to pass orders afresh after affording the petitioners an opportunity of hearing.*

*ii. in case the challenge is to the notice it is open to the petitioner to submit their objections within a period of 8 weeks from the date of uploading of the Web Copy of this order and the authorities shall proceed to pass orders afresh after affording the petitioners an opportunity of hearing."*

8. Thus, the challenge to the proceedings as beyond the period of limitation is rejected. However, it is noticed that the petitioner has not replied to the notice in GST DRC-01 dated 24.09.2023, which preceded the impugned order dated 28.12.2023.

9. 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 24.09.2023.

10. The learned Government Advocate for the Respondent 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.

11. Considering the issue involved on account of limitation and in the light of the clarification issued by the Court, recently, in the context of the limitation under Sections 73 and 74 of the respective GST enactments vide order dated 12.06.2025 in the above mentioned case, I am inclined to remit the case back to the respondent to pass a fresh order *de novo,* subject to the Petitioner depositing 50% 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, if deposited earlier or recovered, shall be set off / adjusted towards the 50% of the pre-deposit condition as stated above.

12. The Petitioner shall file a reply to the Show Cause Notice in GST DRC-01 dated 24.09.2023 together with requisite documents to substantiate the case by treating the impugned Assessment Order dated 28.12.2023 as an

addendum to the Show Cause Notice dated 24.09.2023 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. 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.

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

**13-10-2025**

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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**WP No. 38409 of 2025**

To

1.The Assistant Commissioner (ST)
P.N. Palayam Assessment Circle,
Coimbatore Division, Coimbatore 641
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**C.SARAVANAN J.**

ab

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