



WEB COPY

WP No. 39107 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-10-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 39107 of 2025

AND

WMP NO. 43873 OF 2025, WMP NO. 43875 OF 2025

1. ML Traders

Rep by Fazilur Rahman, Proprietor 1st
Floor, L Mankuppam, Co-op Petrol
Bunk Opp Near Krishna Treater,
Devalapuram Post Pernambut Road,
Ambur, Vellore 635802

Petitioner(s)

Vs

1. The Deputy State Tax Officer ST
Gudiyatham (west) Assessment circle,
Integrated Commercial taxes Building,
Parasuramanpatti Gudiyatham 632 602

Respondent(s)

PRAYER

calling for the records of the respondent order dated 23.04.2024 pertinent to the assessment year (2018-2019) in GSTIN number (33ACWPF8081A1ZM) and quash the same and consequently direct the respondent to redo the fresh assessment and pass

For Petitioner(s): K.Narayanan



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K.Visweswaran
V.G.Vijay Raj

For Respondent: Mrs. P. Selvi
Government Advocate

ORDER

Mrs. P. Selvi, learned Additional Government Pleader 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 Additional Government Pleader 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 23.04.2024 which precedes a Show Cause Notice in GST DRC-01 dated 31.01.2024 for the Tax Period between April 2018 and March 2019.



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 23.04.2024 and to rectify the same under Section 161 of the respective GST enactments.

5. Reading of the impugned Assessment Order dated 23.04.2024 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 31.01.2024 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 31.01.2024.

7. The learned Additional Government Pleader 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 the rescue of the persons like the Petitioner by quashing the impugned Assessment Order on terms subject to the Petitioner depositing 50% of the disputed tax. I do not find any extenuating 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 Additional Government Pleader for the Respondent and having considered the consistent view taken by this Court under similar circumstances, the impugned order dated 23.04.2024 is quashed and the matter is remitted 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, shall be set off / adjusted towards the 50% of the pre-deposit condition as stated above.

11. The Petitioner shall file a reply to the Show Cause Notice in GST DRC-01 dated 31.01.2024 together with requisite documents to substantiate the case by treating the impugned Assessment Order dated 23.04.2024 as an addendum to the Show Cause Notice dated 31.01.2024 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. 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 Petitioner be heard.

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.

16-10-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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C.SARAVANAN J.

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