IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.38845 & 38863 of 2025
and
W.M.P.Nos.43465, 43466, 43467, 43492, 43493 & 43496 of 2025

M/s.Hind Aluminium Company
Represented by its Proprietor,
Mr.Mohanan Gnanasekar,
SF.No.185/2B, Door No.185/2,
Thiruvalluvar Nagar, Hosur,
Krishnagiri, Tamil Nadu – 635 126. ... Petitioner in both W.Ps

Vs.

1.The State Tax Officer,
Inspection Cell – I
Office of the Joint Commissioner(ST)
(Intelligence)
Hosur Division, Hosur – 635 109.

2.The Deputy State Tax Officer
Hosur Intelligence Wing,
Office of the Joint Commisssioner(ST)
(Intelligence), Hosur Division.

3.The Assistant Commissioner(ST)
Hosur(North)-I Assessment Circle,
Commercial Taxes Department,
2nd Floor, Seetha Ram Nagar Meadu,
Hosur – 635 109. ... Respondent in both W.Ps

<u>Prayer in W.P.No.38845 of 2025</u>: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings of the first respondent in GSTIN:33AMKPG7664E1Z1/2018-19 dated 19.02.2025, the order dated 19.02.2025 passed under Section 74 of the CGST/TNGST Acts, 2017 and Summary of the order in Form GST DRC-07 bearing Ref.ZD330225185949W dated 19.02.2025 and quash the impugned proceedings as passed opposed to the principles of natural justice, barred by limitation and also passed based on the implementation reports of the higher ups without an independent, fair and judicious manner.

<u>Prayer in W.P.No.38863 of 2025</u>: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings of the first respondent in GSTIN:33AMKPG7664E1Z1/2017-18 dated 02.02.2025, the order dated 02.02.2025 passed under Section 74 of the CGST/TNGST Acts, 2017 and Summary of the order in Form GST DRC-07 bearing Ref.ZD330225006945K dated 02.02.2025 and quash the impugned proceedings as contrary to Section 75(6) and 75(7) of the CGST/TNGST, 2017, barred by limitation and opposed to the principles of natural justice, barred by limitation and also passed based on the implementation reports of the higher ups without an independent, fair and judicious manner.

For Petitioner : Mr.P.Rajkumar
(in both W.Ps)

For Respondents : Mr.C.Harsharaj
Special Government Pleader
(in both W.Ps)

COMMON ORDER

Mr.C.Harsharaj, learned Special Government Pleader, takes notice for the respondents.

2. Both the Writ Petitions are being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Special Government Pleader for the respondents.

3. In these writ petitions, the petitioner has challenged respective orders dated 19.02.2025 and 02.02.2025 passed for the Assessment Years 2018-19 and 2017-18. The impugned orders have been preceded by notices in DRC-01, to which, the petitioner has also filed replies. The petitioner has filed these writ petitions only on 04.10.2025, after the expiry of the period of limitation prescribed under Section 107 of the respective GST Enactments.

4. The case of the petitioner appears to be that the petitioner has filed

replies to the notices that preceded with the impugned orders. However, without considering the replies, the demand in respect of Defect Nos.2 and 4 in the impugned order dated 02.02.2025 and Defect No.2 in the other impugned order has been confirmed.

5. It is submitted that the demand, insofar as the order dated 02.02.2025 is concerned, also includes turnover, which was liable to tax under the provisions of TNVAT Act, 2006, as part of the demand even though GST came into force with effect from 01.07.2017.

6. It is submitted that part of the demand pertains to the period between 01.04.2017 and 30.06.2017, which is assessable under the TNVAT Act, 2006. However, the same has been included in the GST assessment, despite categorical reply to that effect.

7. The learned counsel for the petitioner would submit that the petitioner is a Proprietary concerned and that the proprietor of the petitioner concerned was indisposed due to Kidney related health issues and was undergoing treatment. Hence, the petitioner could not approach this Court

earlier.

8. The learned counsel for the petitioner further submits that already a sum of Rs.18,64,586/- has already been recovered from and out of the duty confirmed vide the impugned orders.

9. The learned Special Government Pleader for the respondents, on the other hand, would submit that the petitioner has not furnished any of the documents to substantiate the reply that was filed in response to the notices that preceded the respective impugned orders and hence submit that the impugned order does not warrant any interference.

10 That apart, it is submitted that unless the petitioner had substantiated the defence with proper records, the officer concerned cannot be blamed and therefore, the writ petitions are liable to be dismissed as there are no case has been made out for any procedural irregularity in the impugned orders.

11. The learned counsel for the petitioner submits that the petitioner is

willing to make such pre-deposit as may be directed by this Court to protect the interest of the revenue.

12. Having considered the submissions made by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and having perused the impugned order, I am of the view that the orders passed by the 1st respondent do not warrant any interference, as the replies filed by the petitioner were not been substantiated properly by the petitioner with proper documents. On this count, the writ petitions are liable to be dismissed.

13. However, the learned counsel for the petitioner has now attempted to substantiate the case by producing documents, which would involve several disputed question of facts, which is outside the jurisdiction of this Court under Article 226 of the Constitution of India. Therefore, to balance the interest of the parties, this Court is inclined to remit the case back to the 1st respondent for reconsideration, subject to the following conditions:

- In W.P.No.38845 of 2025 (pertaining to the order dated 19.02.2025 for the Assessment Year 2018-19), the petitioner shall deposit 20% of the disputed tax.

- In W.P.No.38863 of 2025 (pertaining to the order dated 02.02.2025 for the Assessment Year 2017-18), the petitioner shall deposit 10% of the disputed tax.

14. While determining the above percentages, the amount already recovered shall be set-off. The petitioner shall file additional proper reply in addition to the reply already on record and substantiate the reply with proper documents within a period of thirty (30) days from the date of receipt of a copy of this order.

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

16. 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 these Writ Petitions were dismissed *in limine* today.

17. Needless to state, before passing any such order, the 1st Respondent shall give due notice to the Petitioner.

18. Both the Writ Petitions stand disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

22.10.2025

Neutral Citation : Yes / No
Index:Yes/No
Speaking order/Non-Speaking order

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To:

1.The State Tax Officer,
Inspection Cell – I
Office of the Joint Commissioner(ST)
(Intelligence)
Hosur Division, Hosur – 635 109.

2.The Deputy State Tax Officer
Hosur Intelligence Wing,
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2nd Floor, Seetha Ram Nagar Meadu,
Hosur – 635 109.

C.SARAVANAN, J.

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W.P.Nos.38845 & 38863 of 2025

22.10.2025