IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-11-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 41475 of 2025
AND
WMP NO. 46441 OF 2025,WMP NO. 46442 OF 2025

1. M/s. Sam Exports
Rep by its Authorised Managing
Partner, Alagarsamy Shrinivasan, 19,
Kumili Mettupalayam, Kannivakkam,
Chengalpattu, Chenani, Tamil Nadu-
603 202

Petitioner(s)

Vs

1. The Assistant Commissioner ST
Chengalpattu Assessment Circle,
No.16A, 1st Floor, First Main Road,
Anna Nagar, Chengalpattu-603 001

2.The Deputy State Tax Officer 2
The Deputy State Tax Officer 2
Chengalpattu Assessment Circle 16A
1st Floor First Main Road Anna Nagar
Chengalpattu 603001

Respondents(s)

PRAYER

call for the records culminating Order bearing Reference No. ZD330425007893G dated 01.04.2025 passed by the 2nd Respondents and quash the same

For Petitioner(s): K Chandrasekaran
V. Bhuvaneshwari

For Respondents: Mr. C. Harsharaj
Special Government Pleader

ORDER

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

2. This Writ Petition is 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 this Writ Petition, the Petitioner has challenged the impugned Order in FORM GST DRC-07 dated 01.04.2025 of the Respondents, which was preceded by a Show Cause Notice in GST DRC-01 dated 18.09.2024 for the tax period between April 2018 and March 2019, levying penalty under Section 125 of the respective GST enactments on account of violation on the part of the petitioner to file the return in Form GSTR-10.

4. Already the petitioner has also suffered the adverse orders for the year 2017-18, which was the subject matter in W.P. No.41469 of 2025, where the tax was demanded from the petitioner.

5. The learned counsel for the petitioner submits that the petitioner has shifted the premises and have obtained a new registration and therefore, under the intimation that the petitioner was not required to file any return. Failure to file return warrants penalty under Section 125 of the respective GST enactments. However, there can be extenuating facts and circumstances of the case that if the petitioner has been in existence as the petitioner failed to respond to the Show Cause Notice in GST DRC-01 dated 18.09.2024.

6. The learned Special Government Pleader for the Respondents 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.

7. 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.

8. Under similar circumstances, Orders have been quashed and cases have been remitted back to pass a fresh order on terms subject to such Assessee depositing 25% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

9. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the 2nd Respondent to pass a fresh order subject to the Petitioner depositing 25% of the disputed penalty 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.

10. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 18.09.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 01.04.2025 as an addendum to the Show Cause Notice dated 18.09.2024.

11. Amount which has already recovered from the Petitioner shall be adjusted towards pre-deposit of 25% of the disputed penalty as ordered above. This will be however subject to verification by the Respondents.

12. In case the Petitioner complies with the above stipulations, the 2nd Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

13. In case the Petitioner fails to comply with any of the stipulations, the Respondents are at liberty to proceed against the Petitioner to recover the disputed penalty in accordance with law as if this Writ Petition was dismissed *in limine* today.

14. Needless to state, before passing any such order, the Respondents shall give due notice to the Petitioner.

15. It is made clear that recovery of 25% of the disputed penalty ordered above pertains only to the impugned Order dated 01.04.2025.

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

06-11-2025

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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