IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.41948 of 2025
and
W.M.P.Nos.46996 and 46998 of 2025

M/s.Sree Ayyappa Holow Blocks,
Represented by Karthik Manickam – Legal Heir of the Proprietor,
Late Mr.Subramaniyam Manickam.
4/140, Annur Road, Kamanaickenpalayam,
Palladam, Coimbatore,
Tamil Nadu – 641 658.
GSTIN:33BIFPM3520F1ZQ ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Office of the Deputy State Tax Officer,
Palladam – 2, Assessment Circle,
Tiruppur, Tamil Nadu – 641 664. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to quash the impugned Order-in-Original bearing Ref.No.GSTIN:33BIFPM3520F1ZQ/2020-21 dated 19.02.2025 and the Summary Order in Form DRC – 07 bearing Ref.No.ZD330225183701M dated 19.02.2025, passed by the Respondent, quash the same have been issued against a deceased assessee and are void ab initio.

For Petitioner : Mr.P.Bhagavath

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate takes notice for the Respondent.

2. This Writ Petition has been filed by the legal representative of the deceased proprietor of the assessee. The proprietor of the assessee company died on 20.08.2024.

3. The Petitioner has challenged the order dated 19.02.2025 in DRC – 07 passed for the tax period 2020 – 2021 which was preceded by a Show Cause Notice in GST DRC – 01 dated 26.11.2024 and the reminders as mentioned in the pre-amble to the impugned order.

4. Neither the death of the proprietor of the assesee was informed to the Department nor any response was filed to the Show Cause Notice in GST DRC – 01 or to the reminders. Thus, the assessee suffered the impugned order.

5. Reading of the impugned order *prima facie* indicates that the demand confirmed pertains to the excess claiming of Input Tax Credit availed on cement, iron and steel by the assessee.

6. The case of the Petitioner is that the Petitioner is engaged in the manufacturing and selling Hollow Blocks. A part of the demand is on account of the Input Tax Credit availed on the strength of some of the suppliers who are said to have become non-existent and part of the demand is on account of the Input Tax Credit availed contrary to Section 17(5) of the respective GST enactments.

7. Considering the fact that the Petitioner had not participated in the assessment proceedings and therefore, to balance the interest of both parties viz., the Assessee and Revenue, the impugned order is quashed and the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 25% of the ineligible credit availed under Section 17(5) of the respective GST enactments within a period of thirty (30) days from the date of receipt of a copy of this order.

8. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 26.11.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 19.02.2025 as an addendum to the Show Cause Notice dated 26.11.2024.

9. In case the Petitioner complies with the above stipulations, the 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 vacated.

10. It is made clear that bank attachment shall be lifted subject to the pre-deposit as ordered above and the Petitioner is not in arrears of any amount barring the amount demanded under the impugned Order.

11. In case the Petitioner fails to comply with any of the stipulations, the 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.

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

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

11.11.2025

Neutral Citation : Yes / No

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To:

The Deputy Commercial Tax Officer,
Office of the Deputy State Tax Officer,
Palladam – 2, Assessment Circle,
Tiruppur, Tamil Nadu – 641 664.

C.SARAVANAN, J.

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