IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.39580 of 2025
and
W.M.P.Nos.44464 and 44465 of 2025

Tvl.Nagaraj Sellappan ... Petitioner

Vs.

The State Tax Officer,
Office of the Commercial Tax Officer,
Rasipuram Assessment Circle,
Namakkal. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings passed by the Respondent in the Order vide GSTIN 33AWRPS4862P1ZH/2021-2022 dated 20.03.2023 along with consequential proceedings under Section 74 in FORM GST DRC 07 vide Ref.No.ZD330323097315I dated 20.03.2023 along with a Rectification Order vide Ref.No.GSTIN 33AWRPS4862P1ZH/2021-2022 dated 14.08.2023 along with consequential Rectification Order vide Ref.No.ZD330823073730G dated 14.08.2023 for the Assessment Year 2021-2022 to quash the same.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate takes notice for the Respondent.

2. With the consent of the learned counsel for the Petitioner and learned Government Advocate for the Respondent, this Writ Petition is being disposed of at the time of admission.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 20.03.2023 passed by the Respondent for the Tax Period 2021-2022 and impugned Order dated 14.08.2023 whereby the application filed under Section 161 of the respective GST enactments was partially rejected.

4. It is noticed that the Petitioner was issued with a Show Cause Notice dated 15.02.2023 in GST DRC-01, issued under Section 74 of the respective GST enactments.

5. By the aforesaid Show Cause Notice dated 15.02.2023, a sum of

Rs.6,61,408/- each was demanded towards SGST and CGST and Rs.1,65,352/- each was demanded as penalty under SGST Act and CGST Act.

6. By the impugned Order dated 20.03.2023, a sum of Rs.30,23,512/- was confirmed as detailed below:-

Sl. No.	Tax Period		Tax (In Rs.)	Interest (In Rs.)	Penalty (In Rs.)	Total (In Rs.)
	From	To				
1	APR 2021	APR2021	6,61,408.00	1,88,940.00	6,61,408.00	* 15,11,756.00
2	APR 2021	APR 2021	6,61,408.00	1,88,940.00	6,61,408.00	# 15,11,756.00
		Total	13,22,816.00	3,77,880.00	13,22,816.00	30,23,512.00

* SGST Rs.15,11,756.00/-

CGST Rs.15,11,756.00/-

7. The Petitioner thus filed an application for rectification of the said Order dated 20.03.2023. Out of the aforesaid sum of Rs.30,23,512/-, the Petitioner claims to have voluntarily paid a sum of **Rs.3,38,310/-** (Rs.1,69,155/- x 2) towards SGST and CGST under Section 73(5) of the respective GST enactments by way of Intimation of payment in Form GST DRC-03 dated 07.07.2023.

8. By an Order dated 14.08.2023 (which is also impugned in this Writ Petition), the Respondent reduced the amount payable under Section 74(1) of

the respective GST enactments as follows:-

Sl. No.	Tax Period		Tax (In Rs.)	Interest (In Rs.)	Penalty (In Rs.)	Total (In Rs.)
	From	To				
1	APR 2021	APR 2021	2,201.00	61,847.00	1,71,356.00	* 2,35,404.00
2	APR 2021	APR 2021	2,201.00	61,847.00	1,71,356.00	# 2,35,404.00
		Total	4,402.00	1,23,694.00	2,34,712.00	4,70,808.00

* SGST Rs.2,35,404.00/-

CGST Rs.2,35,404.00/-

9. The impugned Order dated 14.08.2023 itself stipulates that as per Section 74(11) of the respective GST enactments, if any person served with an Order passed under Section 74(9) of the respective GST enactments pays the tax along with interest payable thereon under Section 50 of the respective GST enactments and a penalty equivalent to 50% of tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded. However, the Petitioner failed to take advantage of the same.

10. Learned counsel for the Petitioner submits that the Petitioner may be given one opportunity to file an appeal against the impugned Order dated 14.08.2023 insofar as the imposition of penalty under Section 74(9) of the respective GST enactments.

11. Learned counsel for the Petitioner however confirms that the Petitioner has not remitted the interest on the belated payment of tax till date.

12. Learned Government Advocate for the Respondent submits that this Writ Petition is devoid of merits as the Petitioner has filed this Writ Petition long after the impugned Orders came to be passed on 20.03.2023 and 14.08.2023.

13. That apart, it is submitted that the Petitioner has admitted to the tax liability and paid the amounts on the dates mentioned above and therefore, there is no scope for interfering with the impugned Order dated 14.08.2023 seeking to reduce penalty under Section 74(11) of the respective GST enactments as the Petitioner has failed to pay interest in time.

14. By way of rejoinder, the learned counsel for the Petitioner submits that the impugned Order dated 20.03.2023 itself was an *ex parte* Order and therefore the Petitioner may be given one opportunity to explain the case afresh since the Petitioner has discharged the tax liability.

15. Though the Petitioner failed to participate in the proceedings before the Respondent by filing a Reply to the Show Cause Notice in GST DRC-01 dated 15.02.2023, considering the fact that the grievance of the Petitioner has been partly redressed and taking note of the amounts already deposited by the Petitioner on 19.04.2022 and on 07.07.2023, and also the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondent, the case need not be remitted back to the Respondent at this distant point of time.

16. The only issue that arises for consideration is whether the Petitioner is liable to pay penalty on account of belated payment of admitted tax liability towards SGST and CGST under Section 74(9) of the respective GST enactments.

17. At best, the Petitioner can be given liberty to challenge the impugned Order dated 14.08.2023, though limitation for filing an appeal has already expired considering the fact that the Petitioner has discharged the tax liability on the dates mentioned above.

18. Under these circumstances, liberty is given to the Petitioner to file a

statutory appeal before the Appellate Authority within a period of thirty (30) days from the date of receipt of a copy of this order coupled with payment of 25% of the disputed amount of tax together with interest on the belated payment of admitted tax liability.

19. Subject to the Petitioner complying with the above condition and furnishing the proof of the same with the Appellate Authority, the Appellate Authority shall dispose of the appeal on merits after hearing the Petitioner without reference to the aspect of limitation.

20. In case the Petitioner fails to comply with the condition stipulated above, the Authorities under the Act are at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

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

22.10.2025

Neutral Citation : Yes / No

arb

To:

The State Tax Officer,
Office of the Commercial Tax Officer,
Rasipuram Assessment Circle,
Namakkal.

C.SARAVANAN, J.

arb

W.P.No.39580 of 2025
and
W.M.P.Nos.44464 and 44465 of 2025

22.10.2025