IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 40343 of 2025
and
W.M.P.Nos.45308 & 45310 of 2025

1. Tvl. R.M.K. Enterprises
Represented by its Proprietor
Mr R.Malik, 64 A, M.K.N. Road,
Guindy. Chennai - 32.

Petitioner(s)

Vs

1. The State Tax Officer
Central Intelligence Cell,
Intelligence II, PAPJM Buildings,
Second Floor,
Greams Road, Chennai 06

2.The Assistant Commissioner (ST)
Alandur Assessment Circle,
I.C.T and R.D Buildings,[South Tower],
IIIrd Floor, Nandanam,
Chennai 600 035.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the 2nd respondent proceedings in GSTIN- 33AKMPM2843FIZ8/ 2017 -18 dated 26.12.23 and quash the same being illegal, invalid, without Jurisdiction and violated the principles of natural justice and contrary to the law or issue such other writ, direction as this Honorable Court think deem and fir proper in the circumstance of the case.

For Petitioner	:	Mr.Vijayakumar D
For Respondents	:	Ms.Amirtha Poonkodi Dinakaran Government Advocate

ORDER

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

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

3. In this writ petition, the petitioner has challenged the impugned assessment order dated 26.12.2023 passed for the tax period 2017-18. The

impugned order has preceded by an intimation in DRC-01A dated 30.08.2023 (Wrongly mentioned as 09.09.2023 in the reference column of the impugned order)

4. The petitioner has also replied to the said intimation by a reply dated 13.09.2023.

5. It is the specific case of the petitioner that the petitioner has explained the position in the reply dated 13.09.2023 in response to the intimation in DRC-01A dated 30.08.2023. The Show Cause Notice that was issued in DRC-01 dated 23.09.2023 was without jurisdiction as there were no facts available for confirming the demand that was proposed in DRC-01.

6. The learned counsel for the petitioner however submits that the petitioner failed to respond to the notice in DRC-01 dated 23.09.2023 as it was posted in the web portal and the petitioner became aware of the impugned order dated 26.12.2023 only after the Department initiated recovery proceedings by issuing Form GST DRC-13 on 17.09.2025 seeking to attach the petitioner's bank account maintained with ICICI Bank.

7. The learned Government Advocate for the respondents, on the other hand, submits that there is no merit in the present writ petition and that the writ petition is liable to be dismissed on the ground of laches.

8. That apart, the learned Government Advocate for the respondents submits that the so called reply dated 13.09.2023 to the intimation in DRC-01A dated 30.08.2023 does not bear any acknowledgement in DRC-06. Therefore, the writ petition is liable to be dismissed.

9. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondents.

10. The intimation under DRC-01A dated 30.08.2023 is on account of the ITC claimed in GSTR-3B and the difference reflected in GSTR-2A. The table attached to the notice in DRC-01A indicates that the petitioner has availed total input tax credit of Rs.1,33,06,140/-, whereas in GSTR-2A, auto-populated credit was only Rs. 1,11,17,362/-. Thus, excess input tax credit was availed by the petitioner in Form GSTR-3B.

11. It is in this background that the petitioner was called upon to reverse the excess input tax credit availed by the petitioner in Form GSTR-3B. The reply of the petitioner to the intimation in DRC-01A dated 30.08.2023 has not dealt with the issue on merits. Instead, the petitioner has merely drawn attention to Circular No. 183/15/2022-GST dated 27.12.2022.

12. After the above intimation in DRC-01A dated 30.08.2023 was issued, to which the petitioner has purportedly replied on 13.09.2023, a notice was issued in DRC-01 dated 23.09.2023. The petitioner failed to respond to the same, and thus, the impugned order has been passed. Thus, the petitioner has been confronted with the following liability:

REVENUE ABSTRACT

Description	Amount Payable			
	IGST(Rs.)	CGST(Rs.)	SGST(Rs.)	Cess (Rs.)
Difference between GSTR-3B Vs GSTR-2A	0.00	2188778	2188778	0.00
Interest at 18% p.a (till 20.12.2023)	0.00	2235432	2235432	0.00
Penalty u/s 73 (10% or Rs 10,000, whichever is higher)	0.00	10000.00	10000.00	0.00
Total	0.0	4434210	4434210	0.0

13. In the present writ petition, the petitioner has merely challenged the impugned order on the ground that it violates the principles of natural justice and that the petitioner's reply dated 13.09.2023 was not considered by the respondents. That apart, a generic statement has been made in Paragraph 3 of the affidavit filed in support of the present writ petition. Relevant portion from the affidavit filed by the petitioner is reproduced below:

> *"3..........Most of the small traders lost their lives and struggled for their daily bread. Hence, most of the traders had lost their businesses and vacated their premises for their survival. Therefore, the petitioner requested to furnish the details of the inspection for the allegation of non-existent suppliers, but the 2nd respondent, without providing said materials, proceeded to pass the order and finally determined the tax liability by order dated 03.02.2021."*

14. Although in paragraph No. 5, a reference is made to the orders dated 30.04.2024 and 31.08.2024 passed for the assessment years 2018-19 and 2019-20, no copies of the said orders have been filed along with this writ petition.

15. Balancing the interest of parties, this Court has remitted the case back to the respondent to pass fresh orders, subject to the assessee depositing the entire disputed tax, after considering the length of delay in approaching this Court since there are no extenuating circumstances, a different view cannot be taken.

16. As per the decision of the Hon’ble Supreme Court of India 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 **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440, the present writ petition is liable to be dismissed.

17. Following the same, this writ petition is disposed of, by remitting the case back to the 2nd respondent to pass a fresh order, subject to the Petitioner depositing entire 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.

18. 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 deposit.

19. In case the Petitioner fails to comply with any of the stipulations, the 2nd 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.

20. Needless to state, before passing any such order, the the petitioner shall be heard.

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

28-10-2025

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Index:Yes/No
Speaking/Non-speaking order

Internet:Yes
Neutral Citation:Yes/No

To

1.The State Tax Officer
Central Intelligence Cell, Intelligence
II, PAPJM Buildings, Second Floor
Greams Road, Chennai 06

2.The Assistant Commissioner ST
Alandur Assessment Circle, I.C.T and
R.D Buildings South Tower , IIIrd
Floor Nandanam Chennai 600 035.

C.SARAVANAN, J.

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