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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-11-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 41674 of 2025
AND
WMP NO. 46708 OF 2025,WMP NO. 46710 OF 2025

1. K Gauthaman
Government Contractor ,GSTIN
33AIHPG5066B3ZO, 273, Salem
Main Road, Bommidi, Dharmapuri
635301.

Petitioner(s)

Vs

1. The State Tax Officer
Harur Assessment circle, Commercial
taxes building Harur

Respondent(s)

PRAYER

call for the records on the file of the respondent in GSTIN-33AIHPG5066B3ZO /2018-19 (GST DRC 07, Reference No ZD330424249344J) dated 30.04.2024 passed under section 73 of TNGST Act 2017 and to quash the same as cryptic, barred by limitation, non-speaking, illegal , arbitrary, wholly without jurisdiction and direct the respondent to pass assessment order afresh or pass

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For Petitioner(s): Mr. A. Thiagarajan
Senior Counsel
for Sudalai Muthu N
P.M.Raja Thiyaneswaran
S.Anandha Rajagopal

For Respondent: Mr. C. Harsharaj
Special Government Pleader

ORDER

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

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 Respondent.

3. In this Writ Petition, the Petitioner has challenged the impugned Order in FORM GST DRC-07 dated 30.04.2024 of the Respondent, which was preceded by a Show Cause Notice in GST DRC-01 dated 12.04.2021 for the tax period between April 2018 and March 2019.

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4. The Petitioner has also filed a reply, pursuant to which the impugned order has been passed. The reply filed by the petitioner is not mentioned in the preamble to the order. However, the impugned order extracts the reply filed by the petitioner, which is reproduced below:

> *"<u>Reply filed by the dealer:</u>*
> *The dealer have filed the reply by merely enclosing the value of contract executed between October 2018 to March 2019, whereas the dealer have not furnished relevant invoices in this regard."*

5. The learned senior counsel appearing for the petitioner would submit that on the same date, yet another order came to be passed for the same tax period pursuant to an notice in DRC-01 dated 28.12.2023. It is submitted that the petitioner had also filed an appeal against the aforesaid order on the presumption that both the orders passed on the same date were comprehensive and that the appeal against the second mentioned order pursuant to the notice in DRC-01 dated 28.12.2023 was sufficient.

6. That apart, the learned Senior Counsel for the petitioner also drew the

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attention of this Court to yet another order passed for the same tax period on 18.09.2024 pursuant to a notice in DRC-01 dated 20.06.2024. It is submitted that only a part of the demand has been confirmed after a detailed order was passed.

7. The learned senior counsel appearing for the petitioner would submit that, *post facto*, on 10.07.2025, a sum of Rs.4,52,644/-, being the tax due under the impugned order, has also been recovered from the petitioner's Electronic Cash Register. A reference was made, mentioning the extract of the same. The learned Special Government Pleader for the respondent also confirms the same.

8. The learned Special Government Pleader for the Respondent would submit that the writ petition is filed belatedly and therefore, liable to be dismissed as the impugned order is dated 30.04.2024, whereas the present writ petition has been filed only on 16.10.2025 and 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,***

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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.***

9. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondent and considering the fact that the entire amount of disputed tax has been recovered as on 16.10.2025 and considering the fact that the impugned order has not been properly contested by the petitioner by filing a proper reply to the Show Cause Notice in GST DRC-01 dated 12.04.2021, which preceded the impugned order and following the consistent view taken by this Court in similar circumstances, the impugned order dated 30.04.2024 passed by the respondent is quashed and the case is remitted back to the respondent to pass fresh orders on merit subject to the petitioner filing a detailed reply to the Show Cause Notice in GST DRC-01 dated 12.04.2021 within a period of thirty (30) days from the date of receipt of a

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copy of this order.

10. All further recovery proceedings including attachment of the bank account of the petitioner shall be kept in abeyance pending further orders.

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

12. 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

1.The State Tax Officer
Harur Assessment circle, Commercial
taxes building Harur

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C.SARAVANAN J.

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