IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No. 39985 of 2025
and
W.M.P.Nos.44902 and 44904 of 2025

Tvl. Nagaraj Sellappan ... Petitioner

Vs.

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

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records relating to the impugned proceedings passed by the first respondent in the Order *vide* TN GST33AWRPS4862P1ZH/2018-19 dated 08.07.2024 along with consequential proceedings under Section 74 in Form GST DRC 07 *vide* ref No.ZD330724099946P dated 08.07.2024 along with the rectification order *vide* TN GST 33AWRPS4862P1ZH/2018-19 dated 11.09.2024 along with the consequential rectification order *vide* FORM GST DRC - 08 bearing ref. no ZD3309240795813 dated 11.09.2024 for the assessment year 2018-19 to quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

This Writ Petition is disposed of at the time of admission with the consent of the learned counsel for the Petitioner and the learned Government Advocate, who takes notice on behalf of the Respondent.

2. Heard the learned counsel appearing for the petitioner and learned Government Advocate appearing for the respondent.

3. In this Writ Petition, the Petitioner has challenged the impugned order dated 08.12.2023 passed under Section 74 of the respective GST enactment, as well as the rectification order dated 11.09.2024.

4. The admitted facts of the case are that the petitioner was issued a notice in Form DRC-01A dated 14.08.2023 under Section 73, followed by a show cause notice in Form DRC-01 dated 02.05.2024 under Section 74. The petitioner sought time to file a reply on 21.08.2023 but thereafter failed to file the same.

5. Under these circumstances, by an order dated 08.07.2024, the

respondent passed the following order:-

> *" The tax payer did not filed any reply along with their documents after expiry of time limit. Personal hearing opportunity is offered to them. But they did not availed it. Hence the demand proposed in the DRC 01 is confirmed under Section 74 of CGST Act and also levied interest @ 18% PA under Section 50 of CGST Act 2017 as detailed below.*

TAX PERIOD : 2018 -19				
ACT	**TAX**	**INTEREST**	**PENALTY**	**TOTAL**
IGST	-	-	-	-
CGST	82,807	88,679	82,807	2,54,293
SGST	82,807	88,679	82,807	2,54,293
TOTAL	**1,65,614**	**1,77,358**	**1,65,614**	**5,08,586**

Thereafter, by a rectification order dated 11.09.2024, the respondent exercised Powers under Section 161 of the respective GST enactment and *suo motu* revised the tax liability, which reads as follows:-

> *The tax payer did not file any reply along with their documents after expiry of time limit. Personal hearing opportunity is offered to them. But they did not avail it. Hence the demand proposed in the DRC 01 is confirmed under Section 74 of CGST Act and also levied interest @ 18% PA under Section 50 of CGST Act 2017 as detailed below.*

TAX PERIOD : 2018 -19				
ACT	**TAX**	**INTEREST**	**PENALTY**	**TOTAL**

TAX PERIOD : 2018 -19				
IGST	-	-	-	-
CGST	2,41,186	2,34,433	2,41,186	7,16,805
SGST	2,41,186	2,34,433	2,41,186	7,16,805
TOTAL	**4,82,372**	**4,68,866**	**4,82,372**	**14,33,610**

6. The learned counsel for the petitioner submits that the impugned order has been passed contrary to the provisions of Section 161 of the respective GST enactment. As per the third proviso to Section 161 of the respective enactments where any rectification is to adversely affects any person, the principles of natural justice has to be followed by the Authority carrying out such rectification.

7. On the other hand, the learned Government Advocate for the respondent submits that the writ petition, filed on 16.10.2025, is liable to be dismissed on the ground of delay and laches, as the impugned orders were passed on 08.07.2024 and 11.09.2024. The learned Government Advocate further relies upon Section 161 (1) of the respective GST enactment, which provides that any assessment, reassessment, adjudication, review, revision, appeal, rectification, notice, summons, or other proceeding that is in substance and effect in conformity with or according to the intent and purpose

of the Act shall not be invalid merely by reason of any mistake, defect, or omission.

8. In reply, the learned counsel for the petitioner submits that there was only an error in the calculation of tax in the order dated 08.07.2024. It is contended that instead of Rs.2,41,186/- towards CGST, the amount was wrongly calculated as Rs.82,807/-. Although the order mentioned 6% of Rs.40,19,773/-, which correctly works out to Rs.2,41,186/-, the same was wrongly computed and recorded. This error, according to the petitioner, has been rectified in the order passed under Section 161 of the respective GST Act. Hence, the petitioner prays that the impugned order be set aside.

9. Considering the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, and following the consistent view taken in similar circumstances, this Court is inclined to remit the matter back to the respondent for passing a fresh order, subject to the Petitioner depositing 50% of the disputed tax, as confirmed in the rectification order dated 11.09.2024, 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. The Petitioner shall file a detailed reply simultaneously to the Show Cause Notice in GST DRC-01 dated 02.05.2024 together with requisite documents to substantiate the case by treating the impugned Assessment Order dated 08.07.2024 as an addendum to the Show Cause Notice dated 02.05.2024 within a period of thirty (30) days from the date of receipt of a copy of this order.

11. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months thereafter.

12. 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.

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

14. It is made clear that recovery of 50% of the disputed tax ordered above pertains only to the impugned Order dated 11.09.2024.

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

24.10.2025

Index : Yes/No
Neutral Citation : Yes/No
av

To

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

C.SARAVANAN, J.

av

W.P.No. 39985 of 2025
and
W.M.P.Nos.44902 and 44904 of 2025

24.10.2025
(2/2)