IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.40777 of 2025
and
W.M.P.Nos.45665 and 45667 of 2025

M/s.S.M.Builders
Rep by its Partner P. Deivam No.06-1,
Nadu Street, Kondalampatty
Salem 636 010. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Suramangalam Assessment Circle,
Salem. ... 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 of the respondent in his proceeding in GSTIN No:33ADEFS0761M1ZY/2018-19 and quash the proceedings dated 30.09.2025 passed therein.

For Petitioner : Mr.B.Raveendran
For Respondent : Mrs. Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

Mrs. Amirtha Poonkodi Dinakaran, learned Government Advocate 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 Government Advocate for the Respondent.

3. In this writ petition, the petitioner has challenged the impugned order dated 30.09.2025 whereby the application filed under Section 128-A of the Income Tax Act of the respective GST Enactments on 31.03.2025 has been rejected on the ground that the original order was passed under Section 74 of the respective GST. Records reveals that earlier an order came to be passed pursuant to issuance of notice under Section 74. It was the subject to a challenge before this court in WP.No.36170 of 2024. The said writ petition came to be disposed of by this Court vide its order dated 08.01.2025, pursuant to which, a fresh notice was issued which ultimately culminated in an order dated 31.03.2025.

4. The Proper Officer concluded as under vide order dated 31.03.2025:-

> *"The tax payer has replied that the SCN, assessment order passed u/s.74 of the TNGST Act, 2017 not correct and also the taxpayer have kept their accounting records through using a computerized system. Additionally, they have provided*

all original purchase invoices, Tax Invoice for Sales along with the vehicle delivery note, vouchers, a copy of the supplier ledger, and the bank statement. By considering these documents, along with other relevant accounting materials, this assessment order is hereby passes u/s.73 of the TNGST Act, 2017."

5. Learned counsel for the petitioner would submit that the petitioner had engaged a Chartered Accountant to represent the petitioner for in the application filed under Section 128-A which was incidentally filed on the same date as the date of the aforesaid order.

6. Learned counsel for the petitioner submits that in case this was represented by the auditor the petitioner may have got the benefit of awareness. However, the said auditor was died on 18.09.2025. Thus, the case of the petitioner went unrepresented. He further submits that the impugned order stating the order in Original dated 31.03.2025 was passed under Section 74 contradicts the facts on record.

7. Reading of the impugned order and order dated 31.03.2025 indicates that this is an inaccurate appreciation of facts, perhaps on account of the fact

that

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gv

there was no representation on behalf of the petitioner in response to the application filed by the petitioner. Under these circumstances, the impugned order is quashed and the case is remitted back to the respondent to pass a fresh order on merits after hearing the petitioner.

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

29.10.2025

Neutral Citation : Yes / No

gv

To:

The Assistant Commissioner (ST)
Suramangalam Assessment Circle,
Salem.

W.P.No.40777 of 2025 and
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