IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.41351 of 2025
and
W.M.P.Nos.46300 and 46301 of 2025

Tvl.Maxwell
Represented by its Partner
Mr.Ramesh ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
(Also known as Commercial Tax Officer)
Hosur North – II Circle,
Hosur, Krishnagiri. ... 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 on the files of the Respondent herein in FORM GST DRC-07 with Reference No: ZD3306230251106 dated 07.06.2023 issued along with the detailed order in GSTIN.No.33ABAFM6452B1ZR / 2019-20 dated 07.06.2023 and quash the same.

For Petitioner : Mr.N.Chandirasekar

For Respondent : Mrs.P.Selvi
Government Advocate

ORDER

Mrs.P.Selvi, 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 07.06.2023, which was preceded by a Show Cause Notice in GST DRC-01 dated 05.05.2023, to which the Petitioner has not replied and has thus the Petitioner has suffered the impugned order.

4. The learned counsel for the Petitioner would submit that the entire demand is unsustainable in the light of the statutory intervention with insertion of Section 16(5) to the respective GST enactments vide SO 4253(E) with

retrospective effect from 01.07.2017 inserted by Finance (No.2) Act, 2024 (15 of 2024) dated 16.08.2024.

5. The learned Government Advocate for the Respondent would submit that this Writ Petition is filed belatedly and therefore liable to be dismissed in the light of the decisions of the Hon'ble Supreme Court 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 also in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

6. I have considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondent, this Court is inclined to come to a rescue of the Petitioner by quashing the impugned order as the issue is *prima facie* covered in favour of the Petitioner in terms of the statutory intervention with insertion of Section 16(5) to the respective GST enactments vide SO 4253(E) with retrospective effect from 01.07.2017 inserted by Finance (No.2) Act, 2024 (15 of 2024) dated 16.08.2024.

7. In view of the above, the impugned order is quashed and the case is remitted back to the Respondent to pass a fresh order on merits and in accordance with law, subject to the Petitioner filing a reply to the Show Cause Notice dated 05.05.2023.

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

31.10.2025

Neutral Citation : Yes / No

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To:

The Assistant Commissioner (ST) (FAC),
(Also known as Commercial Tax Officer)
Hosur North – II Circle,
Hosur, Krishnagiri.

C.SARAVANAN, J.

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