IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.42006 of 2025

and

WMP.Nos.47047 & 47048 of 2025

M/s.Nivedha Traders
Rep.by Prop.Nagalingam Pandian Servai
Aged about 45 years
6/18, Palayakadu Street
Mangalam Road,
Tiruppur 641 604. ...Petitioner

Vs.

1.The Principle Chief Commissioner of GST
No.26, GST Bhawan
1, Uthamar Gandhi Road
Thousand Lights West,
Nungambakkam
Chennai 600 034.

2.The Deputy Commissioner of GST (Appeals)
Commercial Tax Office
Kumaran Road
Tiruppur 641 601.

3.The Deputy State Tax Officer (Tiruppur South)
South Assessment Circle
Commercial Tax Office, Emperor Building
Near Bungalow Stop, Opp.IDBI Bank
Tiruppur 641 603.

4.Remedious Cellular
Prop.Nirmal J Jose
13, 1st Floor, Town Extension
2nd Street, Dharapuram Road,
Tiruppur 641 604.

5.M/s.Sathya Agencies Pvt Ltd
Rep.by its Director
370, Palayamacottai Road
Thoothukudi 638 002. ...Respondents

Prayer: This Writ Petition is filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of impugned order dated 28.08.2024 passed by the third respondent with respect to the GST No.33AQBPP7883M1Z7/2019-20 and quash the same, by directing the second respondent to initiate recovery of GST dues from the 4th & 5th respondents herein.

For Petitioner : Mr.A.Vidyasagar

For Respondents : Mr.A.P.Srinivas for R1
Senior Standing Counsel

Mr.C.Harsharaj for R2 & R3
Special Government Pleader

ORDER

Mr.A.P.Srinivas, learned Senior Standing Counsel takes notice for the 1st Respondent and Mr.C.Harsharaj, learned Special Government Pleader takes notice for the respondents 2 & 3.

2. With the consent of the learned counsel for the Petitioner and learned Special Government Pleader for the respondents 2 & 3, this Writ Petition is being disposed of at the time of admission.

3. In this writ petition, the petitioner has challenged the impugned order dated 28.08.2024, which was preceded by a notice in DRC-01 dated 02.03.2024, pursuant to which the petitioner was also issued with personal hearing notices. However, the petitioner has failed to take advantage of the same and thus suffered the impugned order dated 28.08.2024.

4. The learned counsel for the petitioner submitted that as on 02.07.2025 a sum of Rs.43,458/- has been recovered.

5. The learned counsel for the respondents however is unable to confirm the same.

6. It is noticed that the limitation for filing an appeal under Section 107 of the respective GST enactments, 2017 against the impugned Orders has already expired. The present Writ Petition has been filed only on 30.10.2025.

7. Under similar circumstances, Orders have been quashed and cases have been remitted back to pass a fresh order on terms subject to such Assessee depositing 25% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any

reason to take a different view in this case.

8. Having considered the submissions made by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 2 & 3 and following the consistent view taken under similar circumstances, the case is remitted back to 3rd respondent to pass fresh orders on merits, subject to the petitioner depositing 50% of the disputed tax.

9. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the 3rd Respondent to pass a fresh order subject to the Petitioner depositing 50% of the 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.

10. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 02.03.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 28.08.2024 as an addendum to the Show Cause Notice dated 02.03.2024.

11. Amount which has already recovered from the Petitioner shall be adjusted towards pre-deposit of 50% of the disputed tax as ordered above. This will be however subject to verification by the 3rd Respondent.

12. In case the Petitioner complies with the above stipulations, the 3^{rd} 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 reply/pre-deposit. Subject to the

Petitioner complying with the above stipulations, if any, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

13. It is made clear that bank attachment shall be lifted subject to the deposit of 50% of the disputed tax as ordered above and no other amount is in arrears barring the amount demanded under the impugned Order.

14. In case the Petitioner fails to comply with any of the stipulations, the 3rd 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.

15. Needless to state, before passing any such order, the 3rd

Respondent shall give due notice to the Petitioner.

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

04.11.2025

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No
dna

C.SARAVANAN, J.

dna

To

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