# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM :

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.Nos.44477 and 44479 of 2025
and
W.M.P.Nos.49609, 49610, 49613 and 49614 of 2025

Tvl.Anand Transports,
Represented by its Proprietor
Mahesh ... Petitioner in both W.Ps

Vs.

1.The Assistant Commissioner (ST),
Royapettah Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Nandanam,
2nd Floor, Room No.205,
Nandanam, Chennai - 600 035.

2.The State Tax Officer (FAC),
Royapettah Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Nandanam,
2nd Floor, Room No.206,
Nandanam, Chennai - 600 035. ... Respondents in both W.Ps

Prayer in W.P.No.44477 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in Reference No.ZD330824220770L dated 24.08.2024 under Section 73 of the TNGST Act, 2017 along with a Summary of the Order dated 24.08.2024 in Reference No.ZD330824220770L on the file of the 1st Respondent relating to the Financial Year 2019-2020 and quash the same.

Prayer in W.P.No.44479 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in Reference No. ZD3303251270602 dated 18.03.2025 under Section 73 of the TNGST Act, 2017 along with a Summary of the Order dated 18.03.2025 in Reference No.ZD3303251270602 on the file of the 2nd Respondent relating to the Financial Year 2019-2020 and quash the same.

For Petitioner (In both W.Ps) : Mr.B.Syed Abdul Wakeel

For Respondents : Mrs.P.Selvi

(In both W.Ps) Government Advocate

**COMMON ORDER**

Mrs.P.Selvi, learned Government Advocate takes notice for the Respondents.

2. These Writ Petitions are being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Government Advocate for the Respondents.

3. In W.P.No.44477 of 2025, the Petitioner has challenged the impugned Order bearing Ref.No.ZD330824220770L dated 24.08.2024 passed under Section 73 of the Tamil Nadu Goods and Services Tax Act, 2017 by the 1st Respondent for the Tax Period from April 2019 to March 2020.

4. W.P.No.44477 of 2025 has been filed by the Petitioner after the application filed by the Petitioner on 24.11.2024, to rectify the aforesaid

impugned Order dated 24.08.2024 was partly answered in favour of the Petitioner vide Order dated 18.03.2025 and another application filed on 24.03.2025 came to be rejected vide Order dated 31.03.2025 by the 2nd Respondent.

5. Learned counsel for the Petitioner submits that although the demand that was proposed in the Show Cause Notice in FORM DRC-01 dated 30.05.2024 was confirmed vide impugned Order dated 24.08.2024 was reversed by Order dated 18.03.2025, however, a fresh tax demand for a sum of Rs.3,85,35,356/- was confirmed under Section 161 of the respective GST enactments without due notice to the Petitioner.

6. It is submitted that it is in this background, the Petitioner had filed another application under Section 161 of the respective GST enactments on 24.03.2025 which has now been rejected on 31.03.2025 on a specific query as

to how and why the Petitioner is challenging the Original Order dated 24.08.2024 which decision has been reversed vide Order dated 18.03.2025.

7. Learned counsel for the Petitioner would submit that the basis of the Order dated 18.03.2025 is the impugned Order dated 24.08.2024.

8. Learned Government Advocate for the Respondents submits that the Petitioner has slept over the rights as the Petitioner had failed to approach this Court against the Order dated 31.03.2025 immediately or by filing an appeal before the Appellate Authority within the time stipulated under Section 107 of the respective GST enactments.

9. Learned Government Advocate for the Respondents on the other hand would submit that these Writ Petitions are liable to be dismissed as the Petitioner has left over the statutory rights to file an appeal in terms 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.

10. Having considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondents, this Court is of the view the challenge to the impugned Order dated 24.08.2024 passed under Section 73 of the respective GST enactments pursuant to the Show Cause Notice in FORM DRC-01 dated 30.05.2024 is without any merits as the said Order has been revised by Order dated 18.03.2025.

11. The entire demand that was confirmed vide impugned Order dated 24.08.2024 stands obliterated by Order dated 18.03.2025 and has been substituted with a fresh tax demand on a different ground altogether for a sum

of Rs.3,85,35,356/-. Therefore, the Petitioner should have at best challenge the aforesaid Order pursuant to the rejection of application filed on 24.03.2025 to rectify the purported defect in the Order dated 18.03.2025 vide Order dated 31.03.2025.

12. A reading of the documents particularly Order dated 18.03.2025 passed pursuant to the application filed by the Petitioner on 24.11.2024 for rectification of impugned Order dated 24.08.2024 indicates that the Petitioner was issued with two Notices dated 05.12.2024 and 25.01.2025 to furnish the documents / informations. However, the Petitioner failed to respond to the same and it is in this background, Order dated 18.03.2025 has been passed.

13. Since the Order dated 18.03.2025 has been passed under Section 161 of the respective GST enactments, it was incumbent on the part of the Respondents to have complied with the requirements of 3rd *Proviso* to Section 161 of the respective GST enactments as per which, where such rectification

adversely affects any person, the Principles of Natural Justice shall be followed by the Authority carrying out such rectification.

14. In this case, there is only a part compliance of 3rd *Proviso* to Section 161 of the respective GST enactments as the Petitioner has been only called upon to furnish certain documents vide Notices dated 05.12.2024 and 25.01.2025 which were not responded by the Petitioner.

15. Therefore, before confirming the tax demand vide Order dated 18.03.2025 for a sum of Rs.3,85,35,356/-, a proper Notice should have been issued and merely asking the Petitioner to furnish certain documents was not sufficient. At the same time, the Petitioner has also not been vigilant in either approaching this Court earlier or by filing an appeal before the Appellate Authority instead the Petitioner filed the application for rectification of order dated 24.03.2025 which has been rejected by Order dated 31.03.2025.

16. Considering the overall facts and circumstances of the case and considering the fact that the Petitioner has also not cooperated with the Respondents, to balance the interest of the Petitioner and the Respondents, this case is remitted back to the 2nd Respondent to pass a fresh order *in lieu* of Order dated 18.03.2025 passed under Section 161 of the respective GST enactments insofar as it confirms the tax demand for a sum of Rs.3,85,35,356/-.

17. The impugned Order dated 18.03.2025 shall be treated as a Show Cause Notice for the purpose of remand proceedings.

18. Since the Petitioner has approached this Court only on 03.11.2025, the Petitioner is directed to deposit 10% 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.

19. In case the Petitioner complies with the above stipulation, the 2nd 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 stipulation, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

20. It is made clear that bank attachment shall be lifted subject to the deposit of 10% of the disputed tax as ordered above and no other amount is in arrears barring the amount demanded under the impugned Order.

21. In case the Petitioner fails to comply with the above stipulation, the 2nd 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.

22. Needless to state, before passing any such order, the 2nd Respondent shall give due notice to the Petitioner.

23. In view of the above W.P.No.44477 of 2025 is dismissed and W.P.No.44479 of 2025 is disposed of. No costs. Connected Writ Miscellaneous Petitions are closed.

**18.11.2025**

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To:

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2nd Floor, Room No.205,
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2nd Floor, Room No.206,
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**C.SARAVANAN, J.**

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