IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.46679 of 2025
and
W.M.P.Nos.52084 and 52087 of 2025

Vijay Kishore Mothiki ... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST Appeals, Central – III Zone,
1, 3rd Floor, PAPJM Buildings (Annexure),
Greams Road, Chennai – 600 006.

2.The Deputy State Tax Officer – II,
Kodambakkam Assessment Circle,
No.1, 4th Floor, PAPJM Buildings (Annexure),
Greams Road, Chennai – 600 006.

3.The Branch Manager,
Axis Bank,
86-09-12 ground floor Tilak Road Rajahmundry,
Andhra Pradesh,
India – 533 103. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned order dated 29.04.2024, passed by the 2nd Respondent in Reference No.ZD330424234561Q (GSTIN:33AAGCV3228E1ZM), quash the same, and consequently direct the 1st Respondent to lift the attachment made against the bank account bearing No.921010031956737, maintained with Axis Bank, 86-09-12, Ground floor, Tilak Road, Rajahmundry, Andhra Pradesh – 533 103.

For Petitioner	:	Mr.V.Balakarthikeyan
For Respondents	:	Mrs.K.Vasanthamala Government Advocate for R1 and R2

ORDER

Mrs.K.Vasanthamala, learned Government Advocate takes notice for the first and second Respondent.

2. This Writ Petition is being disposed of at the stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Government Advocate for the first and second Respondent.

3. The learned counsel for the Petitioner would submit that Petitioner's GST registration was cancelled on 09.06.2020. It is submitted that at the time of cancellation of GST registration, the tax amount due was determined as 'NIL' and thereafter the Show Cause Notice was issued on 31.01.2024 for the tax period 2018-2019 by the 2nd Respondent which has now culminated in the ex-parte impugned assessment order dated 29.04.2024 in Form GST DRC – 07.

4. It is further submitted by the learned counsel for the Petitioner that the impugned order passed by the 2nd Respondent is arbitrary and beyond the period of limitation and therefore liable to be interfered with.

5. It is noticed that the Notice in Form GST DRC – 01 dated 31.01.2024 for the tax period 2018 – 2019 was issued under Section 73 of the respective GST enactments. Normally, the limitation for completing the assessment under Section 73 of the Act is within three years from the due date for filing annual return for the relevant Financial Year.

6. It is submitted that even after the exclusion of time for determination of period of limitation in view of the Taxation and other Laws (Relaxation and Amendments of certain Provisions) Act (TOLA), 2020 and Notification issued extending the limitation for passing the adjudication orders due to Covid – 19 pandemic, the impugned order has been passed beyond the period of limitation.

7. Mere cancellation of the GST registration, *ipso facto* would not mean that Petitioner is exempted from any of the procedures contemplated

for adjudication of any tax demand that may be raised by the Department either under Section 73 or under Section 74 of the respective GST enactments.

8. Considering the above, at best, the Petitioner is entitled for fresh adjudication subject to the Petitioner complying with the necessary directions which have to be followed under the provisions.

9. 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.

10. Following the consistent view taken by this Court under similar circumstances, the impugned order is quashed and the case is remitted back to the second Respondent to pass a fresh order on merits 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.

11. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 31.01.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 29.04.2024 as an addendum to the Show Cause Notice dated 31.01.2024.

12. In case the Petitioner complies with the above stipulations, the second 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, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

13. It is made clear that bank attachment if any, shall be lifted subject to the deposit of 50% of the disputed tax as ordered above and the Petitioner is not in arrears of any amount barring the amount demanded under the impugned Order.

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

04.12.2025

Neutral Citation: Yes / No
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<u>To</u>:

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C.SARAVANAN, J.

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