IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-11-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 45586 of 2025
AND
WMP NO. 50773 OF 2025,WMP NO. 50775 OF 2025

1. Tvl. Rahmath Scented Cleanser
(Rep. by its proprietor Mohamed
Rahiman Baburahmath) OLD no.
5/208, New No.5/209, 5th Main Road,
New Ottery, Vandalur, Chennai,
Kancheepuram, Tamilnadu-600 048

Petitioner(s)

Vs

1. Assistant Commissioner (st)(fac)
Thirukazhukundram Assessment Circle,
Station No.42, Wahab Nagar,
Thirukazhukundram-603 109

Respondent(s)

PRAYER
calling for the records on the files of the Respondent herein in the order Ref. No. GSTIN 33AFGPR7303L2Z9 dated 28th January, 2025 issued along with the summary of the order in form GST-DRC-07 reference no. ZD3301252630122 dated 28th January, 2025 passed for the assessment year between April 2020 to March, 2021, quash the same

For Petitioner(s): M.Rajkumar

For Respondent: Ms. Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

Ms. 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 in FORM GST DRC-07 dated 28.01.2025 of the Respondent, which was preceded by a Show Cause Notice in GST DRC-01 dated 25.11.2024 for the tax period between April 2020 and March 2021, wherein the Petitioner was also called upon to appear for personal hearing.

4. The Petitioner however did not file any reply to the Show Cause Notice in GST DRC-01 dated 25.11.2024. Thus, the impugned Order has been passed.

5. The learned counsel for the petitioner would submit that approximately 21% of the disputed tax amount has already been recovered from the Petitioner's Electronic Cash Register. However, the learned counsel for the respondent is

unable to confirm the same.

6. The learned Government Advocate for the Respondent on the other hand would submit that this Writ Petition is devoid of merits and is 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.***

7. That apart, it is submitted that the Petitioner has not substantiated the case with any documents and therefore, on this count also, this Writ Petition is liable to be dismissed.

8. 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.

9. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order subject to the Petitioner depositing 25% 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 25.11.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 28.01.2025 as an addendum to the Show Cause Notice dated 25.11.2024.

11. The amount which has already recovered from the Petitioner shall be adjusted towards pre-deposit of 25% of the disputed tax as ordered above. This will be however subject to verification by the Respondent.

12. In case the Petitioner complies with the above stipulations, the 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 raised/vacated.

13. It is made clear that bank attachment shall be lifter subject to the deposit of 25% 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 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 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.

21-11-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
ab

To
1.Assistant Commissioner (st)(fac)
Thirukazhukundram Assessment Circle,
Station No.42, Wahab Nagar,
Thirukazhukundram-603 109

C.SARAVANAN J.

ab

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