IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-12-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 47978 of 2025
AND
WMP NO. 53566 OF 2025,WMP NO. 53567 OF 2025,WMP NO. 53569 OF 2025

1. Tvl.A.D.Creations
(Rep. by Mrs. Alka Banthia) No. 8/1
KNK Road, Karungalpalayam , Erode
Tamil Nadu 638 005

Petitioner(s)

Vs

1. The State Tax Officer,
Priya Agraharam Circle, Erode Tamil Nadu

2.the Assistant Commissioner (ST) (FAC)
Periya Agraharam Assessment Circle,
161 Brough Road, Commercial Taxes
Department Building 2, Erode 638 301

3.The Branch Manager
HDFC Bank, Ground Floor, 201 , 229
Cauvery Road, Karungalpalayam Erode
638 003

Respondent(s)

WMP No. 53566 of 2025

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WMP No. 53569 of 2025

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Respondent(s)

WP No. 47978 of 2025

PRAYER

calling for the records in the Impugned order passed by the 1st respondent herein vide FORM GST DRC- 07 vide Reference No. ZD331024099091P dated 15.10.2024 along with its accompanying detailed order vide GSTIN- 33ACBFA9030D1Z0/ 2023- 24 dated 15.10.2024 for the tax period Apr 2023- Mar 2024 and quash the same or pass

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PRAYER

to dispense with the production of the original of the impugned recovery proceeding of the 1st respondent herein in FORM GST DRC- 07 vide Reference No. ZD331024099091P dated 15.10.2024 along with its accompanying detailed order vide GSTIN- 33ACBFA9030D1Z0/ 2023- 24 dated 15.10.2024 for the tax period Apr 2023- Mar 2024

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PRAYER

TO Stay all further recovery proceedings of the 1st respondent herein FORM GST DRC- 07 vide Reference No. ZD331024099091P dated 15.10.2024 along with its accompanying detailed order vide GSTIN- 33ACBFA9030D1Z0/ 2023- 24 dated 15.10.2024 for the tax period Apr 2023- Mar 2024 pending disposal of the writ petition

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PRAYER

to issue an interim direction, directing the 2nd respondent herein to lift the Bank Attachment notices in GSTIN- 33ACBFA9030D1Z0/ 2023- 24 dated 15.10.2024 along with FORM GST DRC- 13 served by the 2nd respondent on the 3rd respondent pending disposal of the writ petition

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For Petitioner(s): M/s. N. Prasad
K.A. Parthasarathy
C. Subramanian
A.P. Karventhan

For Respondent: Mr.C. Harsha Raj, Special Government Pleader

ORDER

Mr. C. Harsha Raj, learned Special Government pleader takes notice for the Respondent Nos.1 to 3.

2. This Writ Petition is taken up for final disposal of at the stage of admission after hearing the learned counsel for the Petitioner and learned counsel for the Respondents.

3. The petitioner is before this Court against the order dated 15.10.2024 which was preceded by a notice dated 01.07.2024 in DRC-01A to which the petitioner replied on 22.07.2024 followed by a show cause notice in DRC.01 dated 26.07.2024. The petitioner failed to file a reply to the show cause notice in DRC-01 dated 26.07.2024, inspite of three reminders on 16.09.2024,25.09.2024 and 03.10.2024 and thus suffered the impugned order.

4. In the reminder dated 16.09.2024, reference was made to the alleged false purchases effected by the petitioner and the Input Tax Credit availed by the petitioner on the strength of the invoices raised by the suppliers namely Maha Deviki Trading and Indian Traders. Since the petitioner failed to respond to the Show Cause Notice in DRC-01, the subsequent reminders, the impugned order in Drc-07 has been passed .

5. The specific case of the petitioner is that the petitioner has responded to the Notice in DRC 01 A on 22.07.2024. It is submitted that if indeed the case of the respondent is that the said two suppliers were fake suppliers in the chain of the Shree JJE Spices and Input Tax Credit was fraudulently claimed raising these allegations, proper notice ought to have been issued to the Petitioner in DRC.01 raising these allegations and thereafter, the impugned assessment order ought to have passed.

6. The explanation forth coming from the learned counsel for the petitioner, as to why the petitioner failed to respond to the Show Cause Notice in DRC-01 and the reminder to the Show Cause Notice was uploaded in the portal which was unnoticed. It is submitted that the petitioner cannot be saddled with a tax liability raised in the intimation Notice for personal hearing rather than the proposed Notice in DRC 01 which preceded the impugned order.

7. On the other hand the learned counsel for the respondent submits that the petitioner cannot take a selective plea that he was in receipt of the pre-intimation notice in DRC 01A on 01.07.2024, to which the petitioner has also replied, however, the petitioner was unaware of the Show Cause Notice in DRC 01 dated 26.07.2024 and the three reminders mentioned above issued thereafter.

8. Have considered the submissions made by the learned counsel for the petitioner and the submissions of the learned counsel for the respondent.

9. It is not open for the petitioner to plead that there was a violation of Principles of Natural Justice, as the petitioner has been put to notice vide reminder dated 16.09.2024 regarding the wrong availing of the Input Tax Credit on the strength of the invoices issued by the aforesaid suppliers namely two persons, Maha Deviki Trading and Indian Traders. It is incompetence on the part of the petitioner to co-operate with the respondent and file a reply to the same. The impugned order has clearly indicated as to how the Input Tax Credit was denied to the petitioner.

10. However, following the consistent view taken under similar circumstances in order to balance the interest of both parties viz the assessee and the revenue, the case is remitted back to the first Respondent to pass a fresh

order on merits subject to the petitioner pre-depositing 50% of the disputed tax within a period of 30 days from the date of receipt of a copy of this order. Within such time the petitioner shall also file a reply to the Show Cause Notice dated 26.07.2024 together with requisite documents and the reminder dated 16.09.2024 by treating the impugned order dated 15.10.2024 as an addendum to the to the Show Cause Notice dated 26.07.2024 and to the reminder dated 16.09.2024.

11. In case the Petitioner complies with the above stipulations, the 1st 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.

12. In case the Petitioner fails to comply with any of the stipulations, the 1st 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.

13.Needless to state, before passing any such order, the 1st Respondent shall give due notice to the Petitioner.

14. Accordingly, this Writ Petition is disposed of with the above observations. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

08-12-2025

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

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