IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.47996 of 2025
and
W.M.P.Nos.53588, 53592 and 53593 of 2025

1.Chandra Parthasarathy
2.Rajesh Parthasarathy
3.Gayathri ... Petitioners
(All the above are the legal heirs of Late
Sudarshan Parthasarathy)
Representing Sudarshan Builders and Developers.

Vs.

The Assistant Commissioner,
Alandur Division,
Chennai South Commissionerate,
No.692, MHU complex, Annasalai,
Nandanam, Chennai – 600 035. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the impugned order of the respondent passed in Order in Original No.41/2024 (GST) dated 30.08.2024 and quash the same.

For Petitioners : M/s.A.Divya

For Respondent : Mr.Rajendran Raghavan
Senior Standing Counsel

ORDER

Mr.Rajendran Raghavan, learned Senior Standing Counsel takes notice for the Respondent.

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

3. The Petitioners are before this Court against the impugned order in original No.41/2024(GST) dated 30.08.2024 passed by the Respondent / Assistant Commissioner which was preceded by a Show Cause Notice No.24/2023 dated 30.05.2024. The proposal in the Show Cause Notice has been confirmed in the impugned order against the Petitioner.

4. The impugned order is primarily challenged on the ground that the proprietor of the Petitioner concern, namely Mr.Sudarshan Parthasarathy died on 12.10.2020 and that the Show Cause Notice No.24/2023 dated 30.05.2024 was issued in the name of the deceased person.

5. However, facts on record reveal that the Petitioners are the legal representative of the deceased proprietor of M/s.Sudarshan Builders and Developers, namely M/s.Sudarshan Parthasarathy who has also participated in the Show Cause proceedings by uploading certain documents in reply relating to the agreement signed between the proprietor concern with the following six persons:-

1.Y.Subha dated 01.06.2019
2.Ranit Kumar dated 24.06.2019
3.Satish Kumar dated 10.10.2019
4.Challammal dated 01.12.2019
5.P.Rakesh dated 13.12.2019
6.B.Pavithra dated 15.12.2019

6. It further appears that the legal representatives of the Petitioner concern have also appeared for the personal hearing on 27.08.2024 before the Respondent pursuant to the Show Cause proceedings.

7. The Respondent has however confirmed the demand by the impugned order holding that there are no records available to substantiate the basis on which the Petitioners are discharging the tax liability at the rate of 1 or 5% instead of 18% for works contract service. Operative portion of the impugned order reads as under:-

"*On verification of the records of GSTR-3B, GSTR 1 return, the liability declared and paid, I found that the tax paid* *was on the basis of either rate of 1% or on the rate of 5% under works contract service. There is no declaration of such services by the taxpayer in their registration and all the service provided to B2C which confirm that the imposition of rate of tax mentioned above was not in order and the correct rate of tax on such services is 18%. There are no records available or provided by the taxpayer/representative on what basis they are accounting rate of tax as 1% and 5%. Hence the applicable rate of tax (18%) has been considered for fixing their liability. Hence the taxpayer is liable to pay the difference of Rs.34,91,442/- for the above mentioned period."*

8. *Post facto* an attempt has also been made to pre-deposit of 10% of the disputed tax with a view to file an appeal on 19.12.2024. However, the said appeal has not been filed. It is further noticed that the GST registration has also been cancelled on 01.04.2021 with effect from 31.03.2021.

9. As far as the delay in approaching this Court against the impugned order dated 30.08.2024 is concerned, it is informed that papers were handed over to the consultant to prepare an appeal and file the same for which 10% of the disputed tax was also paid on 19.12.2024.

10. It is noticed that the limitation for filing an appeal under Section 107 of the respective GST enactments, 2017 against the impugned Order has already expired. The present Writ Petition has been filed only on 28.11.2025.

11. At this stage, the learned counsel for the Petitioner submits that the Petitioner is willing to pre-deposit 15% of the disputed tax as a condition for *denovo* adjudication.

12. I have considered the submissions made by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent.

13. Facts on record reveal that the Petitioners' reply to the Notice in Form GST DRC – 01 dated 30.05.2024 is not on records and the Petitioners have sent the documents as stated above by e-mail.

14. Under similar circumstances, Orders have been quashed and cases have been remitted back to the Respondent 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.

15. Considering the fact that 10% of the disputed tax has already been paid and therefore to balance the interest of both parties viz., the Assessee and the Revenue, the impugned order is quashed and the case is remitted back to the Respondent to re-do the exercise and pass fresh order on merits, subject to the Petitioner depositing another 15% of the disputed tax confirmed by the impugned order 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.

16. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 30.05.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 30.08.2024 as an addendum to the Show Cause Notice dated 30.05.2024.

17. 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 vacated.

18. It is made clear that bank attachment shall be lifted subject to the Petitioner depositing 15% of the disputed tax as ordered above and the Petitioner not being in arrears of any other amount for any other tax period barring the amount demanded under the impugned Order.

19. 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.

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

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

09.12.2025

Neutral Citation: Yes / No
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To:

The Assistant Commissioner,
Alandur Division,
Chennai South Commissionerate,
No.692, MHU complex, Annasalai,
Nandanam, Chennai – 600 035.

C.SARAVANAN, J.

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