IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.48813 of 2025
and
W.M.P.Nos.54492 and 54493 of 2025

Sree Velan Hardwares,
Represented by its Proprietor
Selvaraj Jayapal ... Petitioner

Vs.

The Assistant Commissioner,
Kondalampatty,
Salem-1. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the Respondent herein in GSTIN No.33APXPJ2590L1Z9 in FORM GST DRC-07 in Order Reference No.ZD330425085799S dated 9th April, 2025 for the period between April 2021 to March 2022, quash the same.

For Petitioner : Ms.S.Vishnupriya

For Respondent : Mrs.P.Selvi
Government Advocate

ORDER

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

3. Although it is the contention of the Petitioner that the impugned Order itself has been passed without issuance of proper Show Cause Notice in GST DRC-01 and that only at the time of communication of the impugned Order the summary of the Show Cause Notice was issued to the Petitioner, a reading of the impugned Order indicates that the Petitioner had opted to pay tax on Composition Scheme under Section 10 of the respective GST enactments and had short paid the tax and therefore a detailed Show Cause Notice was issued to the Petitioner.

4. The tax ought to have been demanded at 1% (0.5% each) in terms of Section 10(1)(c) of the respective GST enactments. Section 10(1)(c) of the respective GST enactments is reproduced below:-

"**10**. **Composition levy**.-

> (1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of Sub-Sections (3) and (4) of Section 9, a registered person, whose aggregate turnover in the preceding financial year did

> not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under Sub-Section (1) of Section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding,-
>
> (a) …..
>
> (b) …..
>
> (c) half per cent of the turnover in State or turnover in Union Territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed."

5. 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 11.12.2025.

6. Operative portion of the impugned Order indicates that the Petitioner had reported a turn over of Rs.80,000/- only in CMP-08 Returns. However, the Petitioner purchased goods for a sum of Rs.7,38,394/-. Thus, in this regard, the Respondent has added 20% towards gross profit of the aforesaid purchase turnover and has demanded tax at 18%.

7. 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 10% 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.

8. 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 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.

9. Within such time, the Petitioner shall also file a Reply to the Show Cause Notice in GST DRC-01 dated 24.11.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 09.04.2025 as an addendum to the Show Cause Notice dated 24.11.2024.

10. 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.

11. It is made clear that bank attachment shall be lifted subject to the deposit of 10% of the disputed tax as ordered above and the Petitioner is not in arrears of any other amount barring the amount demanded under the impugned Order.

12. 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.

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

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

12.12.2025

Neutral Citation : Yes / No

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To:

The Assistant Commissioner,
Kondalampatty,
Salem-1.

<u>C.SARAVANAN, J.</u>

arb

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