IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2025

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP Nos. 49326 & 49331 of 2025
AND
WMP Nos. 55098, 55101 & 55097 of 2025

Tvl Oceana Concepts,
(Rep by its Proprietor Mr.P.Rajesh),
No. 3/4, Pillayar Kovil Street,
Jafferkhanpet, Chennai,
Tamil Nadu - 600 083.

..Petitioner in both W.Ps.

Vs

1. Assistant Commissioner (ST)
Ekkatuthangal Assessment circle,
No.571, Integrated Buildings for commercial
Taxes and Registration Department,
(South Tower), Room No.305,
3rd Floor, Nandanam,
Chennai- 600 035.

2. The Deputy Commissioner (ST)
(GST Appeal), Chennai,
Commercial Taxes Building,
1, Greams Road,
Chennai 600 006.

..Respondents in both W.Ps.

PRAYER in W.P.No.49326/2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the files of the 1st Respondent herein in FORM GST DRC-07 with Reference No. ZD330424124932M dated 16.04.2024 along with detailed order in

GSTIN /33BCVPR7993B2ZW / 2018-19 dated 16.04.2024, for the tax period APR 2018 - MAR 2019 and quash the same.

PRAYER in W.P.No.49331/2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records on the files of the 2nd Respondent herein in his FORM GST APL 02 vide Reference No. ZD331024168951H dated 23.10.2024 and quash the same while directing the 2nd Respondent herein to admit the appeal and re-dispose the appeal on merits filed by the Petitioner in Form GST APL-01 dated 19.08.2024.

(In both W.Ps.)

For Petitioner(s): Mr.B.Syed Abdul Wakeel

For Respondent(s): Mrs.K.Vasanthamala,
Government Advocate

COMMON ORDER

Mrs.K.Vasanthamala, learned Government Advocate takes notice for the Respondents.

2.By this common order, both these Writ Petitions are 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 Respondents.

3.In W.P.No.49326/2025, the Petitioner has challenged the order dated 16.04.2024 in DRC-07 passed by the 1st Respondent for the tax period 2018-2019.

4.In W.P.No.49331/2025, the order dated 23.10.2024 whereby, the appeal filed by the Petitioner against the order dated 16.04.2024 was rejected on the ground of limitation by the office of the 2nd Respondent. The appeal was filed 3 days after the expiry of the condonable period of limitation.

5.It is noticed that the impugned Assessment Order dated 16.04.2024 passed by the 1st Respondent is an exparte order, as the Petitioner failed to respond to the Show Cause Notice in DRC-01 dated 29.01.2024 and thus, suffered the impugned order.

6.The reasons forthcoming for not participating in the assessment proceedings at the time of admission is that the Petitioner's Proprietor had undergone a By-pass surgery in the month of October 2021 and had not been active in business during the period in dispute and thus, there had been certain irregularities.

7.It is submitted by the learned counsel for the Petitioner that the Petitioner may be put to such reasonable term so that the Petitioner can explain the case afresh before the 1st Respondent. It is submitted that a similar case was filed by the Petitioner for the tax period 2017-2018 in W.P.Nos.49040 and 49044 of 2025, wherein this Court remitted the case back subject to 50% pre-deposit of the disputed tax.

8.Considering the fact that the Petitioner had suffered heart ailment and could not file a reply to the Show Cause Notice in DRC-01 that preceded the impugned assessment order, the impugned orders are quashed and the case is remitted back to the 1st Respondent to pass a fresh order on merits, subject to the Petitioner depositing 15% of the disputed tax over and above the 10% already pre-deposited at the time of filing of appeal on 19.08.2024 against the impugned assessment 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.

9.Any amount already recovered/paid by the Petitioner towards the tax liability confirmed under the impugned order shall be adjusted towards the pre-deposit of 15% as ordered above, subject to verification by the Respondent.

10.Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 29.01.2024 together with requisite documents to substantiate the case by treating the impugned assessment Order dated 16.04.2024 as an addendum to the Notice dated 29.01.2024.

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.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 barring the amount demanded under the impugned Order.

13.In case the Petitioner fails to comply with any of the stipulations, the Respondents are at liberty to proceed against the Petitioner to recover the tax in accordance with law as if these Writ Petitions were dismissed *in limine* today.

C.SARAVANAN J.

GSA

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

15.These Writ Petitions stand disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

17-12-2025

Neutral Citation: Yes/No
GSA

To

1. Assistant Commissioner (ST)
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