IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.48843 of 2025
and
W.M.P.Nos.54539, 54540 and 54542 of 2025

Mallesh
Proprietor of M/s.Malleshwara Enterprises. ... Petitioner

Vs.

1.The State Tax Officer,
Hosur North – 2,
O/o.The Assistant Commissioner,
Commercial Taxes Building, Second Floor,
Hosur – 635 109.

2.The IndusInd Bank,
No.1/375-23, Rajaji Nagar,
Royakottah Main Road,
Kattikanapalli,
Krishnagiri – 635 002. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Show Cause Notice in Form GST DRC – 01 dated 23.02.2024 and the consequential order passed in GSTIN:33EMYPM6838N1ZW/2022-2023 dated 19.06.2024 and quash the same as illegal arbitrary, unreasonable and without application of mind apart from being lack of jurisdiction and further direct the respondent to re-credit the amount of Input Tax Credit paid in tax of Rs.10,44,714/- (CGST and SGST) paid by the Petitioner in DRC-03 dated ARN:AD3312240493683 dated 21.12.2024 and the interest of Rs.3,94,902/- (CGST and SGST) paid in Challan No CPIN:25063300044825 dated 10.06.2025 in view of the law laid down by the Division Bench of this Court reported in (2025) 30 Centax 453 in case of L&T Geo Structure LLP dated 09.05.2025.

For Petitioner : Mr.J.Sunilkumar

For Respondents : Mrs.P.Selvi
Government Advocate
for R1

ORDER

Mrs.P.Selvi, learned Government Advocate takes notice for R1.

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 R1.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 19.06.2024, which was preceded by a Show Cause Notice in GST DRC-01 dated 23.02.2024 wherein the Petitioner was called upon to appear for personal hearing. However, the Petitioner had not taken advantage of the same and thus, suffered the impugned Order dated 19.06.2024.

4. The learned counsel for the Petitioner would submit that *post facto* not only the tax but also the interest has been paid by the Petitioner and that penalty only remains to be unpaid.

5. The learned Government Advocate for R1 is however unable to confirm the same.

6. 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.

7. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the 1st Respondent to pass a fresh order on merits subject to the Petitioner depositing 100% 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.

8. In case the amount that has been stated as recovered in Form GST DRC – 03 dated 21.12.2024 towards the tax demanded confirmed vide impugned order dated 19.06.2024, no further pre-deposit is required as a condition for denovo adjudication.

9. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 23.02.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 19.06.2024 as an addendum to the Show Cause Notice dated 23.02.2024.

10. 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.

11. It is made clear that bank attachment shall be lifted subject to the deposit of 100% of the disputed tax as ordered above and the Petitioner is not

in arrears of any amount barring the amount demanded under the impugned Order.

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

15.12.2025

Neutral Citation: Yes / No
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To:

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O/o.The Assistant Commissioner,
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Hosur – 635 109.

2.The IndusInd Bank,
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C.SARAVANAN, J.

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