IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.49166 of 2025
and
W.M.P.Nos.54927 and 54930 of 2025

Rameshkumar Thilagarajeshwari,
Proprietor of Tvl.Kongu Transport ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Suramangalam Assessment Circle,
Salem-II, Salem,
Tamil Nadu.

2.The Deputy State Tax Officer-II,
(Also known as Deputy Commercial Tax Officer),
Suramangalam Circle,
Salem-II, Salem,
Tamil Nadu. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the 2nd Respondent passed in GSTIN: 33AJPPT4778A1ZW/2020-2021 dated 18.02.2025, order under Section 73 of the TNGST Act and the summary of the order in Form GST DRC-07 both dated 18.02.2025 issued in Reference No: ZD330225173732J and quash the same.

For Petitioner : Mr.A.N.R.Jayaprathap
Junior Standing Counsel

For Respondents : Mrs.K.Vasanthamala
Government Advocate

ORDER

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

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 Respondents.

3. In this Writ Petition, the Petitioner has challenged the Assessment Order bearing GSTIN No.33AJPPT4778A1ZW/2020-2021 dated 18.02.2025 passed by the 2nd Respondent along with consequential summary of the Order bearing Reference No.ZD330225173732J in Form GST DRC-07 dated 18.02.2025, which was preceded by a Show Cause Notice in GST DRC-01 dated 25.11.2024, wherein the Petitioner was called upon to file a reply on or before 23.12.2024.

4. The Petitioner was also issued with Reminders on 13.01.2025 and 05.02.2025, which called upon the Petitioner to file a reply and to appear

for a personal hearing. The Petitioner however neither filed any reply nor appeared for the personal hearing fixed on 21.01.2025 and 10.02.2025 and thus, the impugned Order has been passed.

5. However, it is submitted by the learned counsel for the Petitioner that already collateral proceedings were initiated by the 1st Respondent in GST DRC-01 dated 26.11.2024 in respect of the very same demand as confirmed in the impugned Assessment Order which was also dropped subsequently by the 1st Respondent vide order dated 20.02.2025 in the light of the voluntary payment made by the Petitioner on 05.02.2025.

6. Learned counsel for the Petitioner submits that apart from the amount paid by the Petitioner voluntarily on 05.02.2025, some amount has also been recovered on 06.06.2025 towards the tax liability pursuant to the impugned Order dated 18.02.2025, as it has not been paid immediately within the time limit prescribed under the respective GST Enactments.

7. It is submitted by the learned counsel for the Petitioner that apart from the duplication of amount which was paid and recovered, the question of imposition of interest under Section 50(3) of the respective GST

enactments cannot be countenanced as the Petitioner had sufficient Input Tax Credit which was never utilized by the Petitioner, which in any event was reversed on 05.02.2025 as mentioned above.

8. Learned Government Advocate for the Respondents on the other hand would submit that this Writ Petition is devoid of merits and is liable to be dismissed as the Petitioner has left over the rights in terms of the decisions of the Hon'ble Supreme Court in **Singh Enterprises** Vs. **Commissioner of Central Excise**, **Jamshedpur and others**, (2008) 3 SCC 70 and in **Commissioner of Customs and Central Excise** Vs. **Hongo India Private Limited and another**, (2009) 5 SCC 791 and also in view of the decision of the Hon’ble Supreme Court in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

9. That apart, it is submitted that the Petitioner has not substantiated the case with any documents regarding duplication of demand. It is therefore submitted that on this count also, this Writ Petition is liable to be dismissed.

10. Having considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondents and taking note of the facts of the case, this case is remitted back to the 2nd Respondent to redo the exercise and pass a fresh order on merits within a period of three (3) months from the date of receipt of a copy of this order.

11. Needless to state, before passing any such order, the 2nd Respondent shall give due notice to the Petitioner.

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

16.12.2025

Neutral Citation : Yes / No

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To:

1.The Assistant Commissioner (ST),
Suramangalam Assessment Circle,
Salem-II, Salem,
Tamil Nadu.

2.The Deputy State Tax Officer-II,
(Also known as Deputy Commercial Tax Officer),
Suramangalam Circle,
Salem-II, Salem,
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C.SARAVANAN, J.

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