IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2025

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 49317 of 2025

and W.M.P.Nos.55090 & 55091 of 2025

M/S Intermed Laboratories Private Limited
Represented by its Managing Director,
Mr. Paresh K. Mehta,
No. 4, G.K. Industrial Estate,
Alapakkam, Porur, Chennai 600 116.

..Petitioner(s)

Vs

1. The Commercial Tax Officer
   Kancheepuram Jurisdiction,
   Collectorate Campus,
   Kancheepuram 631 501.

2. The State Tax Officer
   Group I, Chennai Intelligence II,
   No. 1, PAPJM Building,
   Greams Road, Thousand Lights,
   Chennai 600 006.

3. The Assistant Commisisoner (ST),
   Porur Assessment Circle,
   No. 4/109, Chennai Bengaluru Highway,
   Nazaratpet, Chennai 600 123.

..Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, call for the records pertaining to the impugned order issued vide Form GST ASMT 16 in Ref. No. ZD330625183629Y dated

18.06.2025 by the 1st respondent for the assessment year 2023 - 2024 and quash the same.

For Petitioner(s): Mr.Derrick Sam

For Respondent(s): 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 impugned Order dated 18.06.2025, which was preceded by the summons/intimations dated 08.10.2024, 25.11.2024, 21.01.2025 and 07.03.2025. The Petitioner had already filed replies on 22.10.2024 and 21.02.2025 to the aforesaid summons/intimations. Although the Petitioner filed such replies, the impugned order came to be passed ex-parte on the following grounds:-

"Therefore, I am proceeding to decide the case ex-parte based upon the records available with this office. In this connection, I find that Hon'ble Supreme Court and High Court, in several judgments/decision, have held that ex-parte decision will not amount to violation of principles of natural justice, when sufficient opportunities for personal hearing have been given for defending the case.

As per Section 70(1) of the CGST/TNGST Act, summons can be issued by the proper officer to any person whose attendance is considered necessary either for giving evidence or producing a document or any other thing in an inquiry in the same manner, as provided in the case of a civil court under the provisions of Code of Civil Procedure, 1908 (5 of 1908). As per Sub-Section (2) of Section 70, securing such documentary and oral evidence under the said legal provision shall be deemed to be a "judicial proceedings" within the meaning of Section 193 and Section 228 of the Indian Penal Code (45 of 1860). While issuing of summons in one of the instruments with the Department to get/obtain information or documents or statement from any person to find out the evasion of the tax etc.

They should be summoned when it is clear indications in the investigation of their involvement in the decision making process which led to loss of revenue.

All persons summoned are bound to appear before the officers concerned, the only exception being women who do not by tradition appear in public or privileged persons. The exemption so available to these persons under Section 132 and 133 of C.P.C., may be kept in consideration while investigating the case.

It was very necessity to interrogate all three directors in respect of investigation for applying the erroneously refund. The taxpayer has requested two weeks' time to appear before the Proper Officer vide their letter dated 27.01.2025. However, the directors were failed to appear before the

Proper Officer for investigating. Then, they have given opportunity two times thereafter. Hence, the taxpayer's reply is not accepted on the above grounds."

5.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.

6.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 after considering the Petitioner's reply, subject to the Petitioner depositing 25% 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.

7.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.

8.It is made clear that bank attachment shall be lifted subject to the deposit of 25% 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.

9. 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 this Writ Petition was dismissed *in limine* today.

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

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

17-12-2025

Neutral Citation : Yes/No
GSA

C.SARAVANAN, J.

GSA

To

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