IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-12-2025

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 49137 of 2025
and W.M.P. Nos.54895 & 54897 of 2025

Rathinam Shanmugam,
Proprietor of JRV Constructions,
No.4, Thiruvalluvar Street,
Kambar Nagar, Madhavaram MMC,
Chennai 600 051.

..Petitioner(s)

Vs

1. The Deputy State Tax Officer,
   Manali Assessment circle,
   Room No. 101, 1st floor,
   Integrated C.T Buildings,
   Chennai 600 003.

2. The Assistant Commissioner (ST),
   Manali Assessment Circle,
   No.32 Integrated Commercial Taxes Complex,
   Elephant Gate Bridge Road,
   Chennai 600 003.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent Show cause notice in Form GST DRC01 dated 28.06.2023 and the consequential order in GSTIN 33BEFPS9086A1ZE/2017-18 dated 28.11.2023 and the order passed by the 2nd respondent in GSTIN-33BEFPS9086A1ZE/2017-18 with Form GST SPL-07 dated 18.09.2025, quash the same and further direct the 2nd respondent to grant benefit on the waiver of interest and penalty by issuance of Form GST SPL 05.

For Petitioner(s): Mr.V.Sundareswaran

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

ORDER

Mrs.K.Vasanthamala, 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.In this Writ Petition, the Petitioner has challenged the Show Cause Notice dated 28.06.2023 in Form GST DRC-01, assessment order dated 28.11.2023 passed under Section 74 of the respective GST Enactments by the 1st Respondent and order in GST SPL – 07 dated 18.09.2025 passed by the 2nd Respondent.

4.It is submitted by the learned counsel for the Petitioner that the Petitioner wrongly availed Input Tax Credit contrary to Section 16 of respective GST Enactments. It is submitted that *post facto* the Petitioner has paid disputed tax amount on 03.05.2024. However, it is submitted that the Petitioner was entitled to settle the case in terms of **Notification No.21/24 - Central Tax** dated **08.10.2024** and had accordingly filed an application on 01.03.2025 to claim Amnesty under Section 128A of the respective GST Enactments.

5.The 2nd Respondent rejected the aforesaid application on 18.09.2025 stating that the Petitioner was not entitled to invoke Amnesty under Section 128A read with aforesaid **Notification No.21/24-Central Tax** dated **08.10.2024** as proceedings were initiated under Section 74 of the respective GST Enactments.

6.Learned counsel for the Petitioner submits that the detailed assessment order has only referred to Section 73 of the respective GST Enactments and therefore, the rejection of the application or Amnesty under the aforesaid provision and the notification is liable to be interfered with.

7.Learned Government Advocate on the other hand would submit that reference to Section 73 of the respective GST Enactments in the detailed order is only typographical error as the Show Cause Notice in DRC-01 dated 28.06.2023 that preceded the aforesaid order and also summary of the impugned order dated 28.11.2023 in Form GST DRC– 7 clearly indicates that the order was passed under Section 74 of the respective GST Enactments.

8.That apart, it is submitted that 100% penalty has been imposed vide impugned order dated 28.11.2023 and therefore, there is no scope for interfering with the impugned order dated 28.11.2023, which has been passed under Section 73 of the respective GST enactment.

9.Learned Government Advocate also places reliance on Section 160 (1) of the respective GST Enactments and submitted that any mistake which are immaterial would not dilute the order.

10.At this stage, learned counsel for the Petitioner submits that the Petitioner may be given liberty to challenge the assessment order dated 28.11.2023 before the Appellate Commissioner.

11.Since the Petitioner has already deposited the entire tax amount on 03.05.2024 before filing the application on 01.03.2025 under Section 128A of the respective GST Enactments, read with aforesaid **Notification No.21/24-**

Central Tax dated **08.10.2024**, liberty is given to the Petitioner to challenge the assessment order before the Appellate Authority within a period of 30 days from the date of receipt of a copy of this order.

12.In case, the Petitioner files such an appeal within the time stipulated above, the Appellate Authority shall consider and dispose of the same on merits and in accordance with law as expeditiously as possible without further reference to limitation.

13.In view thereof, all recovery proceedings shall be kept in abeyance for a period of six months from the date of receipt of a copy of this order.

14.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
GSA

C.SARAVANAN, J.

GSA

To

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   Manali Assessment circle,
   Room No. 101, 1st floor,
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