BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.1482 of 2025
and
W.M.P.(MD) Nos.1071 and 1072 of 2025

Tvl.Chellam Motors Private Limited,
Rep., by its Accountant/Authorised Signatory,
Mr.J.Thangabalu,
No.9, Ibrahim Park Street,
Trichy-620 008. .. Petitioner

Vs.

1.The State Tax Officer-V (Roving Squad),
Office of the Joint Commissioner (ST),
Commercial Taxes Department,
Intelligence Trichy Division,
Trichy-620 008.

2.The Commercial Tax Officer,
Office of the Joint Commissioner (ST),
Commercial Taxes Department,
Intelligence Trichy Division,
Trichy-620 008. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the impugned Order in GSTIN. 33AAGCC2404D2ZE/2020-21, dated

30.09.2024, and the rejection order of rectification application in Reference No. GSTIN. 33AAGCC2404D2ZE/2020-21, dated 05.12.2024 passed by the 1st respondent and consequential impugned form GST DRC - 07 in Reference No.ZD33924197269S, dated 30.09.2024, and rejection order of rectification application in Reference No.ZD331224043984E, dated 05.12.2024, issued by the 2nd Respondent and quash the same as manifestly arbitrary, void, contrary to the provision of Section 168A of the Central Goods and Services Tax Act, 2017 and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner	:	Mr.S.Muthuvenkatraman
For Respondents	:	Mr.R.Suresh Kumar Additional Government Pleader

<u>ORDER</u>

The challenge in the writ petition is to the assessment order of the year 2020-21.

2. The Primordial contention of the learned counsel for the petitioner is that neither the provisions of Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as “the Act”)

which envisages a determination by the Assessing Officer of the proposal made under the show cause notice has been invoked, nor the circular issued by the Commissioner, State Tax, Commercial Taxes Department, Ezhilagam, Chennai, in Circular No.8/2024, dated 29.08.2024 has been followed by the Assessing Officer while issuing the order of demand.

3. A perusal of the order impugned herein would also show that the Assessing Officer had not made any determination of the tax payable by the petitioner as envisaged under Section 74 of the Act, nor has followed the guidelines issued in Circular dated 29.08.2024 of the Commissioner of State Tax. In such view of the matter, I am of the view that the order impugned suffers from vice of arbitrariness. For the said reason, the order impugned is liable to be interfered with.

4. In fine, this Writ Petition is allowed, the impugned order is set aside and the matter is remitted back to the first respondent for fresh consideration. The petitioner shall file his reply along with supporting documents within a period of two weeks from the date of receipt of a

copy of this order and thereafter, the first respondent shall provide an opportunity of hearing to the petitioner and pass a reasoned order on merits and in accordance with law within a period of eight weeks thereafter. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.01.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes

abr

To

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Trichy-620 008.

2.The Commercial Tax Officer,
Office of the Joint Commissioner (ST),
Commercial Taxes Department,
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Trichy-620 008.

K.KUMARESH BABU, J.

abr

W.P.(MD) No.1482 of 2025

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