BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) Nos.2456 to 2458 of 2025
and
W.M.P.(MD) Nos.1730, 1732 and 1733 of 2025

Tvl.Vasantham Recharge,
Rep., by its Proprietor, P.Karthikeyan,
No.1/2-2, Main Road, K.Paramathi,
Karur-639 111. .. Petitioner in all W.Ps.

Vs.

The State Tax Officer,
Roving Squad-1, Erode,
Office of the Joint Commissioner (State Tax),
Erode. .. Respondent in all W.Ps.

Prayer in W.P.(MD) No.2456 of 2025: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order passed by the Respondent vide his order in GSTIN: 33DIBPK9402G1ZJ/2017-18 dated 25.11.2024 and quash the same as it is unlawful, invalid and without jurisdiction.

Prayer in W.P.(MD) No.2457 of 2025: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order passed by the Respondent vide his order in GSTIN: 33DIBPK9402G1ZJ/2018-19 dated 25.11.2024 and quash the same as it is unlawful, invalid and without jurisdiction.

Prayer in W.P.(MD) No.2458 of 2025: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order passed by the Respondent vide his order in GSTIN: 33DIBPK9402G1ZJ/2019-20 dated 25.11.2024 and quash the same as it is unlawful, invalid and without jurisdiction.

In all W.Ps.

For Petitioner	:	Mr.A.Satheesh Murugan
For Respondent	:	Mr.R.Suresh Kumar Additional Government Pleader

COMMON ORDER

Heard Mr.A.Satheesh Murugan, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

2. These writ petitions have been filed challenging the orders dated 25.11.2024 for the assessment years 2017-18, 2018-19 and 2019-20.

3. The primordial contention of the learned counsel for the petitioner is that the impugned orders herein had been passed beyond the show cause notice that had been issued to the petitioner. That apart, he would contend that even though the show cause notice has been issued under Section 73 of Goods and Services Tax Act, 2017 (hereinafter referred to as "the Act"), the present impugned orders have been passed invoking Section 74 of the Act.

4. A perusal of the orders impugned would also show that the same are beyond the show cause notice, as no penalty has been calculated in the show cause notice. However, in the impugned orders, the penalty has been levied on the petitioner. Further as rightly pointed out by the learned counsel for the petitioner that even though the show cause notice was issued invoking powers under 73 of the Act, the present impugned orders have been passed under Section 74 of the Act.

5. In view of the same, the impugned orders are set aside and the matter is remitted back to the respondent to pass orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner confining himself to the show cause notice issued to the petitioner.

6. In fine, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.01.2025

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

abr

To

The State Tax Officer,
Roving Squad-1, Erode,
Office of the Joint Commissioner (State Tax),
Erode.

K.KUMARESH BABU, J.

abr

W.P.(MD) Nos.2456 ot 2458 of 2025

Dated: 29.01.2025