BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.5364 of 2025
and
W.M.P.(MD)Nos.3930 and 3931 of 2025

M/s.Madurai Radha Travels,
A Partnership Firm,
Represented by its Partner RVN. Kannan,
No.9, West Avani Moola Street,
Madurai - 625 001. ... Petitioner

-vs-

Assistant Commissioner (ST) (FAC),
TN Commercial Taxes Department,
Nethaji Road Circle,
CT Complex, 4th Floor,
Dr. Thangaraj Salai, Madurai - 20. ... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records comprised in detailed proceedings in DRC 07 for the year 2017-18, dated 29.12.2023 and the consequential order under Section 73 of Goods and Services Tax Act 2017 dated 29.12.2023 in Ref.No.ZD331223266217M and the consequential attachment notice in Form DRC-13 in GSTIN - 33ABAFM3706A1Z2/2017-18 dated 27.01.2025 on file of the respondent and quash the same as being arbitrary, ultravires the provisions of the Central Goods and Services Tax Act 2017 and violative of the fundamental rights of the petitioner.

For Petitioner	:	Mr.K.Prabhakar
For Respondent	:	Mr.J.K.Jayaselan Government Advocate

ORDER

This Writ Petition has been filed seeking to quash the proceedings of the respondent in DRC - 07 for the year 2017-2018, dated 29.12.2023 and the consequential order passed under Section 73 of Goods and Services Tax Act 2017, dated 29.12.2023, in Ref.No.ZD331223266217M and the consequential attachment notice in Form DRC-13 in GSTIN – 33ABAFM3706A1Z2/2017-18, dated 27.01.2025, on file of the respondent.

2. The learned counsel for the petitioner submits that the petitioner is engaged in the business of operating staff buses for various corporate companies and also operating buses plying between Madurai – Chennai and Madurai – Bengaluru. The petitioner has been regularly paying GST under the CGST and SGST slabs and has also availed various input tax credits available to it. While so, a show cause notice dated 31.10.2022 was issued for the period from 2017 to 2021, alleging that the petitioner had wrongfully availed tax credits and short-paid GST.

3. The learned counsel further submits that challenging the above said show cause notice, the petitioner filed W.P.No.33009 of 2022 before the Principal Seat of this Court. By order dated 21.12.2022, this Court permitted the petitioner to file written submissions and raise all grounds, including whether the liability would arise under Sections 73 and 74 of the GST Act and directed the second respondent therein to consider the same on its own merits and in accordance with law. Accordingly, the petitioner filed the written submissions. Thereafter, the respondent issued a demand cum show cause notice dated 22.05.2023 in Form GST DRC - 01 A for the years 2017-2018, 2018-2019, 2019-2020, and 2020-2021. Challenging the same, the petitioner filed W.P.(MD)Nos.21498 to 21501 of 2023 before this Court. By order dated 04.09.2023, this Court granted an order of interim stay. Subsequently, the respondent issued a show cause notice dated 27.09.2023 for the year 2017-2018, without reference to the earlier proceedings. Thereafter, the respondent passed the impugned order dated

29.12.2023. This Court, vide order dated 03.06.2024 in W.P.(MD)Nos.21498 to 21501 of 2023 recalled the orders passed based on the GST DRC 01 issued in May 2023 and directed a combined enquiry in the show cause notice dated 31.10.2022 and the subsequent DRC 01. Thereafter, on 18.06.2024, the respondent passed a final order pursuant to the show cause notice dated 31.10.2022. Aggrieved over the same, the petitioner has filed an appeal [Appeal No.372 of 2024] before the appellate authority namely, the Joint Commissioner of CGST and Central Excise (Appeals), Coimbatore at Madurai, which is now pending. However, the respondent has passed a consequential attachment order dated 27.01.2025, pursuant to the impugned order dated 29.12.2023. Hence, the present Writ Petition.

4. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondent submits that the appeal filed by the petitioner will be considered and appropriate orders will be passed on merits and in accordance with law, within a time frame to be fixed by this Court.

5. Considering the above said submissions, this Court directs the Joint Commissioner of CGST and Central Excise (Appeals), Coimbatore at Madurai, to consider the appeal [Appeal No.372 of 2024] filed by the petitioner on merits and pass appropriate orders in accordance with law, after giving due opportunity to the petitioner, within three months from the date of receipt of a copy of this order. In the interregnum, the orders of the respondent / Assessing Authority shall be kept in abeyance. It is also made clear that this Court has not expressed any of its views with regard to the merits of the matter and that it is open to the appellate authority to consider the same on its own merits.

6. With the above directions, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

28.02.2025

Copy to :-

The Joint Commissioner of CGST and Central Excise (Appeals),
Coimbatore at Madurai,

To:-

The Assistant Commissioner (ST) (FAC),
TN Commercial Taxes Department,
Nethaji Road Circle,
CT Complex, 4th Floor,
Dr. Thangaraj Salai, Madurai - 20.

VIVEK KUMAR SINGH, J.

smn2

W.P.(MD)No.5364 of 2025

28.02.2025