BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)Nos.6301, 6302 and 6303 of 2025
and
W.M.P.(MD)Nos.4645, 4667 and 4666 of 2025

M.Raju ... Petitioner in all the W.Ps.

-vs-

1.The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner,
Tuticorin III Assessment Circle,
Commercial Taxes Office,
No.282-A, Beach Road,
Thoothukudi - 628 001. ... Respondents in all the W.Ps.

PRAYER IN W.P.(MD)No.6301 of 2025: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records pertaining to impugned order of the second respondent in ASMT-13 in Reference No.ZB3307222918661, dated 27.07.2022 for the Tax Period May 2022 and quash the same.

PRAYER IN W.P.(MD)No.6302 of 2025: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records pertaining to impugned order of the second respondent in ASMT-13 in Reference No.ZD331222062246T, dated 16.12.2022 for the Tax Period October 2022 and quash the same.

PRAYER IN W.P.(MD)No.6303 of 2025: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records pertaining to impugned order of the second respondent in ASMT-13 in Reference No.ZD3307230476188, dated 12.07.2023 for the Tax Period May 2023 and quash the same.

For Petitioner in all the W.Ps. : Mr.B.Rooban

For Respondents in all the W.Ps. : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

These writ petitions are filed as against the orders passed by the second respondent herein, dated 27.07.2022, 16.12.2022 and 12.07.2023.

2. The learned counsel for the petitioner submits that, as per Section 62(2) of the GST Act, if the returns are filed within 30 days from the date of the impugned orders, the orders passed shall be deemed to be withdrawn. The petitioner filed their returns for May 2022 on 02.08.2022, for October 2022 on 19.12.2022 and for May 2023 on 22.07.2023. Therefore, the impugned orders are deemed to be withdrawn and the corresponding demand must be nullified.

However, the second respondent, without withdrawing the impugned orders, is insisting on payment, which is in gross violation of the principles of natural justice. The second respondent ought to have withdrawn the impugned proceedings in the light of the returns filed by the petitioner.

3. Mr.J.K.Jayaselan, learned Government Advocate submits that the second respondent issued notices to the petitioner in Form GSTR-3A for non-filing of returns for the tax periods May 2022, October 2022, and May 2023 on 27.06.2022, 25.11.2022 and 25.06.2023, respectively. Subsequently, the second respondent passed the impugned orders on 27.07.2022, 16.12.2022, and 12.07.2023. After receiving these impugned orders, the petitioner filed returns in Form GSTR-3B for the respective tax periods, namely, May 2022 on 02.08.2022, October 2022 on 19.12.2022 and May 2023 on 22.07.2023.

4. The learned Government Advocate further submits that the petitioner is having a remedy to file an application for rectification before the second respondent under Section 161 of the Tamil Nadu Goods and Services Tax Act, 2017. However, the petitioner has bypassed this remedy and has directly approached this Court without invoking the said provision.

5. Recording the above said submission made by the learned Government Advocate that the petitioner is having a remedy to file an application for rectification before the second respondent under Section 161 of the Tamil Nadu Goods and Services Tax Act, 2017, these writ petitions are disposed of, with liberty to the petitioner to file an application for rectification before the second respondent under Section 161 of the Tamil Nadu Goods and Services Tax Act, 2017, within a period of two weeks from the date of receipt of a copy of this order. In the event, if any application is filed within a period of two weeks from the date of receipt of a copy of this order, the second respondent shall entertain the same and dispose of the same in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of one month thereafter. If the petitioner fails to file the rectification application within the specified time frame, the impugned orders would be revived. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
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11.03.2025

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VIVEK KUMAR SINGH, J.

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Common order in
W.P.(MD)Nos.6301, 6302 and 6303 of 2025

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