BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.8618 of 2025
and
W.M.P.(MD)Nos.6441 and 6442 of 2025

Sri Balaji Tollways (Madurai) Private Limited,
Represented by its Managing Director
Mr.Seyyadurai Nagarajan,
Plot No.218/1A2, Karuvelampatti,
Thiruparankundram Taluk, Madurai- 625 008. ... Petitioner

-vs-

The Deputy State Tax Officer - 2,
Thiruparankundram Assessment Circle,
Dr. Thankaraj Salai, Madurai,
Tamil Nadu - 625020. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order dated 10.09.2024 with the reference GSTIN 33AAWCS7779R1ZU/2018-19 on the file of the respondent and quash the same.

For Petitioner	:	Mr.S.Ramamurthy
For Respondent	:	Mr.J.K.Jayaselan Government Advocate

ORDER

This writ petition is filed challenging the assessment order passed by the respondent, dated 10.09.2024, for the Assessment Year 2018-2019.

2. The learned counsel for the petitioner submits that the impugned order is a non-speaking order, violating Section 75(6) of the GST Act, as it fails to address the petitioner's submissions. The order was passed under Section 74 of the GST Act, despite no clear or implied allegation of fraud, willful mistake or suppression of facts by the petitioner, which are the necessary jurisdictional preconditions.

3. The learned counsel for the petitioner further submits that the impugned order exceeds the scope of the show cause notice dated 13.05.2024, which did not propose the imposition of any penalty, but the impugned order has imposed a 100% penalty, violating Section 75(7) of the GST Act. The impugned order is based on a mistaken figure of Rs.35,88,87,433.70 as the available credit, whereas the correct figure reflected in the petitioner's Form GSTR-2A is Rs.20,00,14,439/-.

4. The learned counsel for the petitioner also submits that there can be no demand for tax or input credit reversal by comparing Table 8A of Form GSTR-9 with Form GSTR-2A, as both refer to the same input tax credit available to the petitioner and not availed by it.

5. In support of his submissions, the learned counsel for the petitioner relied on the following judgments:-

(i) **S.S.Communications, Rep. by its Proprietor, Prem Ananth** vs. **The Deputy State Tax Officer – II, Kumbakonam** [W.P.(MD)No. 22420 of 2024, dated 20.09.2024]

(ii) **HCL Infotech Ltd.** vs. **Commissioner, Commercial Tax** reported in **[2024] 167 taxmann.com 125 (Allahabad)**

(iii) **SCM Silks (P.) Ltd.** vs. **Assistant Commissioner (ST) (FAC)** reported in **[2023] 156 taxmann.com 449 (Madras)**

(iv) **Tvl. V. M. & Co.** vs. **State Tax Officer, Ramanathapuram** reported in **[2024] 168 taxmann.com 707 (Madras)**

6. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondent submits that the impugned assessment order has been passed after providing sufficient opportunity to the petitioner to put forth their case and therefore, there is no need to interfere with the impugned order. He further submits that the petitioner is having an appeal remedy before the appellate Deputy Commissioner (State Tax) (GST Appeal), Madurai, under Section 107 of the GST Act, 2017. However, without invoking the appeal remedy, the petitioner has straightaway approached this Court.

7. Heard both sides.

8. Considering the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent and also considering the fact that the petitioner is having an appeal remedy before the appellate Deputy Commissioner (State Tax) (GST Appeal), Madurai, under Section 107 of the GST Act, 2017, this writ petition is disposed of, with liberty to the petitioner to approach the appellate authority and raise all the grounds raised in this writ petition in the appeal. In the event, if any appeal is filed within a period of two weeks from the date of receipt of a copy of this order, the appellate authority shall entertain the appeal without reference to the period of limitation and dispose of the same in accordance with law, within a period of three months thereafter. In the interregnum, the respondent shall maintain status quo prevailing as on date. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

27.03.2025

To:-

The Deputy State Tax Officer - 2,
Thiruparankundram Assessment Circle,
Dr. Thankaraj Salai, Madurai,
Tamil Nadu - 625020.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.8618 of 2025

27.03.2025