



W.P.(MD)No.7998 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.04.2025**

CORAM:

THE HONOURABLE **MR.JUSTICE VIVEK KUMAR SINGH**

W.P.(MD)No.7998 of 2025

RR Hotel,
14/21, Viswanathan Street,
Cumbum,
Theni District.
Rep. By its Proprietor,
T. Ravi.

... Petitioner

Vs.

1. The Commissioner,
Commercial Tax Department,
Chepauk, Chennai.
2. The Joint Commissioner (ST),
Commercial Tax Department,
Madurai Division, Madurai.
3. The State Tax Officer,
Uthamapalayam Assessment Circle,
Uthamapalayam,
Theni District.
4. The Additional Commissioner (Non-GST),
Commercial Tax Department,
Chepauk, Chennai.

... Respondents

(R4 is impleaded vide order of this Court dated 28.04.2025 in WMP(MD)No.8322 of 2025.)



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus, directing the respondents to permit the petitioner to avail the New Samathana Scheme 2023 for assessment period of 2015-16, 2016-17 and 2017-18 after deducting the deposited amount on the basis of representation given by the petitioner dated 21.2.2025 within time stipulated.

For Petitioner : Mr. C. Jeganathan
for Mr.Sri Charan Rengarajan,
Senior Counsel

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

This writ petition has been filed seeking a direction to the respondents to permit the petitioner to avail New Samathana Scheme 2023 for assessment periods 2015-16, 2016-17 and 2017-18 after deducting the deposited amount, on the basis of representation given by the petitioner dated 21.2.2025 within time stipulated

2. The petitioner is running a hotel in the name and style of 'RR Hotel' at Cumbum. The state government has introduced a new samathana scheme with effect from 16.10.2023 to 15.02.2024 for



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settlement of arrears of taxes as per Tamilnadu Taxes (Settlement of Arrears) Act, 2023. for the assessment period upto 2017-18. The petitioner had availed the said scheme for the assessment years 2012-13 to 2014-15. However, the petitioner was not permitted to avail the said scheme from 2015 onwards. The pre assessment notice was issued in the year 2018 and the final assessment order was passed only in the year 2023, after a period of five years and hence, the petitioner was unable to avail the said scheme. The delay is not on the part of the petitioner. Hence, the petitioner made requests to the third respondent to extend the said scheme on 21.02.2024 and 21.02.2025. Since the said representations have not been considered, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner relied upon a judgment of the Hon'ble Supreme Court in the case of ***Union of India and Others vs. Onkar S.Kanwar and Others*** reported in **[2000 (7) Supreme Court cases 591]**, wherein it is held as follows:-

“We have heard the parties. In our view, a reading of the Kar Vivad Samadhan Scheme (Removal of Difficulties) Order shows that where a declaration had been made in respect of a tax arrear and where in respect of the same matter a show cause notice had also been issued to any other person, then the settlement in favour of the declarant has to be deemed to be full



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and final in respect of other persons on whom show cause notices had been issued. It is settled law that when an Appeal is pending there is no finality to the proceedings. The proceedings are then deemed to be continuing. Undoubtedly, at one place the Kar Vivad Samadhan Scheme (Removal of Difficulties) Order seems does state that the show cause notice should be pending adjudication. However, the same order also talks of the show cause notice being in respect of same matter on which the show cause notice has been issued to the main declarant. Then the Order provides that a settlement in favour of the declarant will be deemed to be full and final in respect of other persons also. This Order has to be read as a whole. If read as a whole, it is clear that a settlement by the main declarant is to operate as full and final settlement in respect of all other persons on whom show cause notice was issued in respect of the same matter. Thus read as a whole the words "pending adjudication" cannot be read to exclude cases where the proceedings are still pending in Appeal. Even otherwise the order has to be read along with the Kar Vivad Samadhan Scheme. Under the Kar Vivad Samadhan Scheme a party can file a declaration so long as the proceedings are pending. Thus, even though the show cause notice may have been adjudicated upon and an Appeal is pending a party could still take the benefit of the Kar Vivad Samadhan Scheme and file a declaration. The object of the Kar Vivad Samadhan Scheme (Removal of Difficulties) Order is to give benefit of a settlement by the main party (i.e. the Company in this case) to all other co-noticees. This being the object a classification, restricting the benefit only to cases where the show cause notice is pending adjudication, would be unreasonable. If read in this manner the Order would be discriminatory. An interpretation which leads to discrimination must be avoided. An interpretation, as suggested by Mr. Ganesh, would also be against the object of the Kar Vivad Samadhan Scheme (Removal of Difficulties) Order. It is therefore not possible to accept the submissions of Mr. Ganesh. In our view the reasoning given by the High Court of Kerala is correct and needs to be upheld."

4. Thus, the aforesaid ratio laid down by the Hon'ble Supreme Court in the case of **Onkar S.Kanwar** stated supra, is applicable to the



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case on hand and hence, the petitioner herein is also entitled to the New Samathana Scheme 2023 for assessment period of 2015-16, 2016-17 and 2017-18.

5. Considering the facts and circumstances of this case, the first respondent is directed to consider the case of the petitioner, in the light of the New Samathana Scheme 2023 for the assessment periods of 2015-16, 2016-17 & 2017-18 and pass appropriate orders on merits and in accordance with law.

6. With the above direction, the writ petition is disposed of. There shall be no order as to costs.

28.04.2025
(2/2)

Index : Yes / No
NCC : Yes / No



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VIVEK KUMAR SINGH, J.

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To

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