BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.10066 of 2025
and
W.M.P.(MD)No.7512 of 2025

M/s.Jayam and Co.,
Represented by its Partner M.Govindarajan,
2B, Takkerchatiram Chandu,
WB Road,
Tiruchirappalli – 620008. ... Petitioner

-vs-

The Deputy State Tax Officer -I,
Gandhi Market Assessment Circle,
Multistoried Buildings, Khajamalai,
Mannarpuram,
Tiruchirapalli – 620020. ... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the files of the respondent herein, in his proceedings Order in Ref. No.ZD3302252521204, dated 25.02.2025 and quash the same as arbitrary, illegal and against principles of natural justice.

For Petitioner : Mr.S.Karunakar

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

ORDER

This writ petition is filed challenging the assessment order passed by the respondent, dated 25.02.2025, for the year 2020-2021.

2. The learned counsel for the petitioner submits that the impugned order was passed as a third demand on the same issue and for the same period 2020-2021, for which an order had already been issued by the Central GST Officer and State Tax Officers. The learned counsel for the petitioner further submits that the Central GST officers in Trichy had already conducted a detailed investigation regarding the taxable value reported in GSTR-3B for both the cancelled registration (2017-2018) and the new registration (2018-2019 to 2020-2021), resulting in an assessment order confirming a differential GST demand of Rs.71,97,634/- for the period 2017-2018 to 2020-2021. Aggrieved by the said order, the petitioner has filed an appeal before the Joint Commissioner of CGST & C.Excise (Appeals), Trichy on 22.01.2024.

3. The learned counsel for the petitioner further submits that, during recovery proceedings, the petitioner was made aware of the impugned order dated

25.02.2025, confirming the demand and imposing penalties, which the petitioner had no chance to respond to, as the order was also only communicated through the web portal. The learned counsel also submits that the collection of tax amounts to triple taxation and therefore, the impugned order in this writ petition is liable to be set aside.

4. The learned Government Advocate appearing for the respondent submits that the impugned order was not a third demand on the same issue or for the same period, but a separate and distinct demand issued under the State GST Act. The demand raised in the impugned order is based on discrepancies found between the GSTR-9 and GSTR-3B filings, which was not fully addressed in the earlier assessment order issued by the Central GST officers. The learned Government Advocate submits that it is within their jurisdiction to issue a demand for GST under the State GST Act, irrespective of the Central GST assessment, as both taxes are separate and governed by different legislation.

5. The learned Government Advocate appearing for the respondent further submits that the show cause notice for the impugned demand was issued through the GSTN portal on 25.11.2024, in accordance with the statutory procedure. It is the responsibility of the petitioner to regularly monitor the GST portal and respond to any notices issued. The learned Government Advocate submits that the petitioner had the opportunity to view and respond to the notices but failed to do so and therefore, cannot now claim a lack of notice or opportunity to be heard.

6. The learned Government Advocate appearing for the respondent also submits that the tax demanded in the impugned order, is not a case of triple taxation, as the GST demanded relates to a different aspect of the petitioner's taxable turnover that was not fully captured in the earlier assessments. The respondent clarifies that there is no overlap in the demand raised by the Central GST authorities and the State GST authorities and as such, there is no question of triple taxation. The learned Government Advocate submits that the impugned order was issued in accordance with the applicable laws and the penalties imposed were in line with the statutory provisions for non-compliance. The learned Government Advocate contends that the petitioner had adequate opportunity to be heard, but they failed to utilize the available remedies. Therefore, the learned Government Advocate prays that the writ petition be dismissed and the impugned order be upheld.

7. Heard both sides.

8. Upon considering the submissions of both parties, this Court finds that the impugned order was passed without proper consideration of the overlapping demand for the same period, as well as the failure to provide the petitioner with adequate notice of the order, which was issued ex-parte through the GSTN portal. Furthermore, the issue of triple taxation raised by the petitioner requires further examination.

9. In view of the above, this Court concludes that the principles of natural justice were not fully adhered to and as such, the impugned order is set aside. The matter is remitted back to the respondent for a fresh consideration, including a detailed examination of the issues raised by the petitioner, such as the overlap in demand, the method of communication and the triple taxation issue. The respondent is directed to provide the petitioner with an opportunity to be heard and to pass appropriate orders on merits and in accordance with law, within four months from the date of receipt of this order.

10. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
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09.04.2025
(2/2)

To:-

The Deputy State Tax Officer -I,
Gandhi Market Assessment Circle,
Multistoried Buildings, Khajamalai,
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Tiruchirapalli – 620020.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.10066 of 2025

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