BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.9947 of 2025
and
W.M.P.(MD)Nos.7415 and 7416 of 2025

Tvl.N.V.R. Sons,
Rep. by its Proprietor N.Rajeshkumar,
6-A, Old Kuyavarpalayam Road,
Old Keel Madurai Station Road,
Madurai – 625009. ... Petitioner

-vs-

1.Union of India,
Rep. by the Secretary,
Department of Revenue, Ministry of Finance,
No.137, North Block,
New Delhi – 110001.

2.The Goods and Services Tax Council,
Rep. by its Chairman,
GST Council Secretariat,
5th Floor, Tower II,
Jeevan Bharti Building, Janpath Road,
Connaught Place, New Delhi – 110 001.

3.The State of Tamil Nadu,
Rep. by Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St. George, Chennai – 600009.

4.Principal Secretary / Commissioner of Commercial Taxes,
Commercial Taxes Department, Ezhiligam, Chepauk,
Chennai - 600005.

5.The Assistant Commissioner (ST),
Kamarajar Salai Circle, Madurai – 625020. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the first respondent in Notification No. 56/2023 - Central Tax dated 28.12.2023 and the records on the file of the third respondent in G.O.(Ms) No.1 and the Notification dated 02.01.2024 issued therein and the records on the files of the fifth respondent in GSTIN: 33AQAPR9208D1Z2 for the Tax Period 2018-19, dated 26.04.2024 and the consequent DRC-07 and summary order uploaded in the GSTN portal in Reference No. ZD3304242198669, dated 27.04.2024 for the Tax Period: APR 2018 - MAR 2019 and quash the same as manifestly arbitrary, void, contrary to the provision of Section 168A of the Goods and Services Tax Act, 2017 and violative of Articles 14 and 19(1)(g) of the Constitution of India and illegal, without jurisdiction and against the provisions of the Goods and Services Tax Acts, 2017.

For Petitioner	:	Mr.A.Chandra Sekaran
For R1	:	Mr.J.Alaguram Jothi Senior Panel Counsel

For R3 to R5 : Mr.J.K.Jayaselan
Government Advocate

ORDER

This writ petition has been filed challenging the Notification No.56/2023-Central Tax, issued by the first respondent on 28.12.2023, G.O.(Ms)No.1 of the Commercial Taxes and Registration (B1) Department, issued by the third respondent on 02.01.2024 and the assessment order passed by the fifth respondent on 26.04.2024, for the Assessment Year 2018-2019.

2. The learned counsel for the petitioner submits that the impugned Notification No.56/2023-Central Tax dated 28.12.2023, issued by the first respondent, is arbitrary, without jurisdiction, capricious, excessive and contrary to the provisions of Section 168A of the CGST Act. Furthermore, it violates Articles 14 and 19(1)(g) of the Constitution of India, as it imposes unjustified restrictions without a rational basis. Similarly, the Notification issued by the third respondent in G.O.(Ms)No.1 dated 02.01.2024 is arbitrary, without jurisdiction, capricious, and excessive. It is contrary to Section 168A of the TNGST Act, 2017 and violative of Articles 14 and 19(1)(g) of the Constitution of India, infringing upon the petitioner's right to equality and the right to practice any profession or to carry on any occupation, trade or business.

3. The learned counsel further submits that the order dated 26.04.2024, passed by the fifth respondent, was made without conducting a detailed enquiry. The fifth respondent failed to verify critical documents, including the petitioner's returns in GSTR-1, the auto-populated GSTR-2A, the offset summary and GSTR-9 for the Financial Year 2018-2019, which is in clear violation of principles of natural justice.

4. The learned counsel further submits that Section 168A of the CGST Act was inserted as an extraordinary measure to empower the Government to extend time limits due to force majeure circumstances, specifically the severe impact of the COVID-19 pandemic. The learned counsel submits that the exercise of this extraordinary power was initially carried out through Notification No.13/2022-CT, which extended the time limit for issuing orders under Section 73 of the CGST Act until 30th September 2023. The said extension was made considering the disruptions caused by lockdowns, travel restrictions and staff shortages during the pandemic. However, the learned counsel contends that the impugned notifications and the assessment order do not align with the purpose and spirit of Section 168A of the TNGST Act, as they fail to consider the post-pandemic recovery period and the adequate time already provided for compliance under the earlier notifications.

5. The learned Government Advocate appearing for the respondent submits that the impugned Notification No.56/2023-Central Tax, dated 28.12.2023, issued by the first respondent and the Notification issued in G.O.(Ms)No.1, dated 02.01.2024, issued by the third respondent, are in accordance with the powers conferred under Section 168A of the CGST Act and Section 168A of the TNGST Act, 2017, ensuring that taxpayers had sufficient time to comply with their statutory obligations.

6. It is submitted that, as per the Annexure to G.O.(Ms)No.1, dated 02.01.2024, the time limit for completing the assessment under Section 73 of the TNGST Act was duly extended. The relevant portion of the said Government Order reads as under:-

"ANNEXURE

NOTIFICATION

In exercise of the powers conferred by Section 168A of Tamilnadu Goods and Services Tax Act, 2017 [Tamilnadu Act 19 of 2017] [hereinafter *referred to as the said Act] and in partial modification to the Commercial Taxes and Registration Department, Notification, Government Gazette, Extraordinary, dated 28th May, 2020, and No.II[2]/CTR/289 [c-4]/202I, published at page 3 in Part II - Section 2 of the Tamilnadu Government Gazette, Extraordinary, dated 11th May, 2021 and No.II[2]/CTR/573 [c-3]/2022, published at page 2 in Part Il-section 2 of the Tamilnadu Government Gazette, Extraordinary, dated 8th July, 2022 and No.II[2]/CTR/351[a-6]/2023, published at page 3 in Part II-Section 2 of the Tamilnadu Government Gazette, Extraordinary, dated 5th April 2023, the Governor of Tamilnadu, on the recommendations of the Council, hereby extends the time limit specified under sub-section [10| of Section 73 for issuance of order under sub-section [9] of Section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to the period as specified below, namely:-*

[i] for the financial year 2018-19. up to the 30th day of April, 2024.

[ii] for the financial year 2019-20, up to the 31th day of August, 2024.

2. This notification shall be deemed to have come into force on 28th day of December, 2023."

Therefore, the learned Government Advocate submits that the extension is valid and was issued after proper consideration of the prevailing circumstances.

7. The learned Government Advocate further contends that the exercise of powers under Section 168A of the CGST Act was done appropriately, considering the broader objective of mitigating the hardships faced by taxpayers due to force majeure events. The notifications were issued based on the recommendations of the GST Council and in line with the legislative intent to ensure smooth compliance during challenging times.

8. The learned Government Advocate further submits that the assessment order dated 26.04.2024, passed by the fifth respondent, was made after due consideration of the relevant facts and in compliance with the procedural requirements under the CGST Act and the TNGST Act. The learned Government Advocate submits that the assessment was conducted based on available records, and the failure to verify specific documents such as GSTR-1, GSTR-2A, offset summaries and GSTR-9 does not render the order invalid, as the statutory requirements were met.

9. Heard both sides.

10. Upon considering the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondents 3 to 5 and having regard to the materials on record, this Court is of the view that the impugned notifications issued under Notification No.56/2023-Central Tax, dated 28.12.2023 and G.O.(Ms)No.1, dated 02.01.2024, as well as the assessment order dated 26.04.2024, are valid and issued in accordance with the provisions of the CGST Act, TNGST Act and the constitutional framework.

11. This Court finds that the exercise of powers under Section 168A of the CGST Act and Section 168A of the TNGST Act was done appropriately, with due consideration of the exceptional circumstances. Furthermore, the respondents have acted within their jurisdiction and have not violated the principles of natural justice or the petitioner's fundamental rights under Articles 14 and 19(1)(g) of the Constitution of India.

12. In view of the above, this Court is of the opinion that the writ petition lacks merit and is liable to be dismissed. Accordingly, the writ petition is hereby dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
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08.04.2025

To:-

1.The Secretary,
Union of India,
Department of Revenue, Ministry of Finance,
No.137, North Block,
New Delhi – 110001.

2.The Chairman,
Goods and Services Tax Council,
GST Council Secretariat,
5th Floor, Tower II,
Jeevan Bharti Building, Janpath Road,
Connaught Place, New Delhi – 110 001.

3.The Secretary to Government of Tamil Nadu,
Commercial Taxes and Registration Department,
Secretariat, Fort St. George, Chennai – 600009.

4.The Principal Secretary / Commissioner of Commercial Taxes,
Commercial Taxes Department, Ezhiligam, Chepauk,
Chennai - 600005.

5.The Assistant Commissioner (ST),
Kamarajar Salai Circle, Madurai – 625020.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.9947 of 2025

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