



W.P.(MD) No.15360 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.15360 of 2025
and
W.M.P.(MD) Nos.11608 & 11609 of 2025**

M/s. Viha Hotels Private Limited,
rep. by its Director M.Vinoth.

... Petitioner

Vs

The Assistant Commissioner of GST and Central Excise,
Tanjavur Division, Ponnagar,
Medical College Road,
Tanjavur - 613007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in the impugned Show Cause Notice No. 20/2024 - GST (DPU) with DIN 20240759XN0300020172, dated 01.07.2024, Order in Original 03/2025-GST passed in DIN. 20250159XN030000BFEB dated 30.01.2025 and consequential order U/s 74 in summary of the order in Form GST DRC-07 having reference number ZD3301253055303 dated 31.01.2025 and quash the same and direct the respondent to refund with applicable interest a total of Rs.19,64,050/-



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paid in pursuance of the impugned SCN having DIN 20240759XN0300020172 through Form GST DRC 03 having ARN No.AD330724017065E dated 10.07.2024 and Form GST DRC 03 ARN No.AD330724052398W dated 31.07.2024 as tax and interest respectively.

For petitioner : Mr. A.K. Antony

For respondent : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

2. The petitioner has filed this Writ Petition against the impugned order dated 30.01.2025 passed by the respondent.

3. The argument of the petitioner is that the impugned order has been passed without jurisdiction and contrary to the show cause notice issued to the petitioner.



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4. That apart, it is submitted that the petitioner has paid the disputed tax long before the issuance of the show cause notice together with the interest and therefore, imposition of the penalty on the petitioner under Section 11(4) of the CGST Act, 2017 is not acceptable. Hence, the impugned order is liable to be set aside.

5. The learned counsel for the petitioner attempted to explain the case by filing three tables in respect of the demand regarding which tax and interest has already been paid by the petitioner. The surviving issue is only regarding the levy of penalty under Section 74 of the GST Act, 2017, as extended period of limitation has been invoked.

6. It is the further case of the petitioner that the petitioner is entitled to the refund of the amount that has been paid. Therefore, it is not in the question of imposition of penalty, as the petitioner is entitled to refund of the amount that has been paid by the petitioner on three issues, which were adjudicated in the impugned order.



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7. It is the further case of the petitioner that the consolidated show cause notice issued for the period between 2017-18 and 2021-22. However, the demand that has been confirmed for the period of 2017-18 alone. There are several disputed questions of fact which were required a detailed analysis by the Appellate Authority. Hence, this Court is really concerned with the jurisdiction and the decision making process and not with the decision taken in the impugned order. As such, I find no merits in the present Writ Petition.

8. Hence, it is for the petitioner to file statutory appeal under Section 107 of GST Act, 2017 before the Appellate Authority.

9. At this stage, the learned counsel for the petitioner also submits that the petitioner has filed a statutory appeal today, but has withdrawn the same. Since this Court is of the view that the appeal is maintainable, the petitioner is permitted to re-file the appeal within a period of 15 days from the date of receipt of a copy of this order. The petitioner shall comply with the requirements of the respective GST enactments as in force along with the application.



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WEB COPY 10. This writ petition is dismissed, with the above liberty. No costs.

Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

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To
The Assistant Commissioner of GST and Central Excise,
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C.SARAVANAN, J.

apd

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