BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2025

CORAM

THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P.(MD) No.15659 of 2025
and
W.M.P.(MD) Nos.11884 to 11886 of 2025

Teja Export
Represented by Proprietor
Mr.Kailash Choudhary
97/2, Thuvarangulam Village,
Sivagangai Road, Keeranoor Panchayat,
Madurai – 625 020. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Madurai Rural East Assessment Circle,
Commercial Taxes Buildings Madurai,
Dr.Thangaraj Salai Road,
Madurai – 625 020. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records from the file of the respondent in impugned order passed in Reference No.ZD3308242447274 in GSTIN/ID : 33AKQPC1840G1ZH dated 27.08.2024 for the F.Y. 2019-20 and quashing the same as without jurisdiction, barred by limitation, erroneous on facts and violative of principles of natural justice.

For Petitioner : Mr.R.Ananth
for Mr.K.S.Prakash

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

O R D E R

Mr.R.Suresh Kumar, the learned Additional Government Pleader, appears and takes notice on behalf of the respondent. After hearing the learned counsel for the petitioner and learned Additional Government Pleader appearing for the respondent, this Writ Petition is being disposed of at the time of admission stage.

2. The petitioner has filed this Writ Petition challenging the impugned Assessment Order dated 27.08.2024, whereby not only tax has been demanded for the period covered by the impugned order, but also a penalty equivalent to 100% of the tax amount has been imposed on the petitioner.

3. It is the specific case of the petitioner that the impugned order is without jurisdiction, as the penalty under Section 74 of the TNGST Act has been imposed without issuance of a notice under Section 74 of the respective GST enactments, alleging suppression of facts.

4. On perusing the documents filed before this Court, particularly the Notice issued in Form GST DRC-01A dated 14.11.2022, it is evident that the notice has been issued under both Sections 73 and 74 of the respective GST enactments. It has been specifically stated therein that, in case the petitioner fails to pay the tax within seven days in DRC-03 on the common portal, a Show Cause Notice will be issued under Section 74(1) of the Act. It has further been stated that if the petitioner has any objection, the same may be submitted in writing along with all supporting documentary evidence within 15 days from the date of receipt of the said notice, failing which statutory action will be initiated under Section 73/74 of the TNGST Act.

5. The petitioner was also given an opportunity of being heard. The notice issued in Form GST DRC-01A dated 14.11.2022 was followed by another intimation in Form GST DRC-01A dated 15.11.2022, and a Show Cause Notice under Section 73 of the Act dated 10.02.2023. The petitioner did not respond to any of the notices and consequently suffered the impugned Assessment Order dated 27.08.2024. The impugned order also precedes the reminders dated 04.04.2024, 15.05.2024, and

06.08.2024. The petitioner has not responded to any of the notices that preceded the impugned order.

6. The only relief that the petitioner can expect from this Court is a conditional order setting aside the impugned order, with liberty to file a reply to the Show Cause Notices, other notices, and reminders that preceded the impugned order, subject to the petitioner depositing 25% of the disputed tax within a period of 30 days from the date of receipt of a copy of this order, as has been ordered under similar circumstances.

7. As there is no scope for interfering with the impugned order in terms of the decision of the Hon'ble Supreme Court in ***Assistant Commissioner (CT), LTU, Kakinada and Others vs. Glaxo Smith Kline Consumer Health Care Limited***, 2020 SCC Online SC 440, and as the petitioner cannot file an appeal under Section 107 of the Act in view of the decision of the Hon'ble Supreme Court in ***Singh Enterprises vs. Commissioner of C.Ex., Jamshedpur***, 2008 (221) E.L.T. 163 (S.C.), this Writ Petition is disposed of by setting aside the impugned order, which shall be treated as a corrigendum/addendum to the Show Cause Notices, other notices, and reminders that preceded it and by permitting the

petitioner to reply to the said notices and reminders, subject to the petitioner depositing 25% of the disputed tax, as directed above.

8. It is made clear that in case the petitioner fails to deposit the aforesaid amount within the period stipulated above, this Writ Petition shall be deemed to have been dismissed, and it shall be open to the respondent to proceed against the petitioner for recovery of the tax due under the impugned order.

9. Accordingly, this Writ Petition is disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.06.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes/No
Speaking Order / Non-Speaking Order

To
The Assistant Commissioner (ST)
Madurai Rural East Assessment Circle,
Commercial Taxes Buildings Madurai,
Dr.Thangaraj Salai Road,
Madurai – 625 020.

C.SARAVANAN, J.

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