BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.06.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.16059 of 2025
and
W.M.P.(MD) No.12150 of 2025

Rethinasamy Gandhi ... Petitioner

Vs

Thedeputy State Tax Officer- I,
Thanjavur – II,
Commercial Tax Building,
Thanjavur. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records in the impugned Order in GSTIN 33BBYPG1660C2ZS/2017-18, dated 30.12.2023 issued by the respondent and quash the same as it is without jurisdiction and clear violation of statutory provisions.

For petitioner : Mr. S Karunakar

For respondent :Mr.J.K.Jayaselan

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ORDER

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

2. The petition is before this Court against the impugned order, dated 30.12.2023, wherein the petitioner has been mulched with tax liability for the tax period 2017-18.

3. The impugned order has been preceded with notice in DRC 01A, dated 11.09.2023 followed by Show Cause Notice in DRC 01, dated 25.09.2023, to which the petitioner has replied and thereafter, a reminder was issued to the petitioner on 18.11.2023.

4. It is noticed that the petitioner has given superficial reply, however, not clearly explained the position in the reply.

5. It is the specific case of the petitioner that the petitioner appears to be engaged in transportation of bottles from TASMAC and that the petitioner was not required to pay GST as tax liability was on the recipient of service, namely, TASMAC in terms of Notification No.11/2017-Central tax (Rate), dated 28.06.2017 of the Central Government and an identical Notification issued by the State Government for the purpose of TN GST Act, 2017.

6. Having considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent, I am of the considered view that in terms of the Sl.No.11 to the said Notification, *prima facie,* there is an indication that the tax has to be paid on Reverse Charge Basis on the recipient, however, this aspect has not been considered in the impugned order.

7. However, it is noticed that the petitioner has come long after the impugned order that was passed by the respondent on 30.12.2023. Considering the consistent view of this Court, this Court is inclined to set aside 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.

8. The impugned order, which stands quashed, shall be treated as corrigendum/addendum to the show cause notice that preceded the impugned order.

9. The petitioner shall file a reply to the show cause notice that preceded the impugned order within a period of 30 days from the date of receipt of a copy of this order, along with the said deposit.

10. The respondent shall, thereafter, proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of three (3) months. Needless to state, the petitioner shall be heard before passing such order.

11. This Writ Petition is disposed of, with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No **16.06.2025**
Internet : Yes / No
apd

To
Thedeputy State Tax Officer- I,
Thanjavur – II,
Commercial Tax Building,
Thanjavur.

C.SARAVANAN, J.

apd

W.P.(MD) No.16059 of 2025

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