

W.P.(MD) No.16052 of 2025
and
W.M.P.(MD) No.12140 of 2025

C.SARAVANAN.,J

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The matter is listed today under the caption “for being mentioned”.

2. When the matter is taken up for hearing, the learned counsel for the petitioner submits that the competent person to pass orders is the third respondent.

Hence, necessary corrections may be carried out in prayer and para 7 in the order.

3. In view of the same, necessary amendment shall be carried out in the prayer as ‘third respondent’ instead of ‘2nd respondent’ and paragraph Nos.7 and 7 of the order, dated 16.06.2025, are modified as follows:

“7. Since the issue pertains to the assessment year 2022-23, the third respondent shall endeavor to pass a fresh order on merits within a period of three months from the date of receipt of a copy of this order. Needless to state that the petitioner shall be heard and a speaking order shall be passed within the time. It is made clear that the petitioner has to produce all the documents as evidence and substantiate his defence, failing which it is open to the third respondent to confirm the demand based on the doctrine of preponderance of probability.

8. With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed. ”

4. Registry is directed to issue fresh order copy.

17.07.2025

apd

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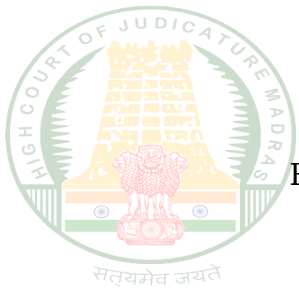
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C.SARAVANAN.,J
apd

W.P.(MD) No.16052 of 2025
and
W.M.P.(MD) No.12140 of 2025

17.07.2025



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2025

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CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition(MD)No.16052 of 2025

and

W.M.P(MD)No.12140 of 2025

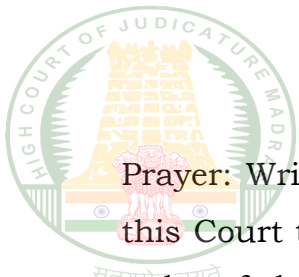
Tvl. SKP READYMIX,
Rep. by its Proprietor,
S.Revathi, aged about 37 years,
W/o K.P.Senthil Kumar,
S.F.No.482/2B, Alampalayam,
Munnur Village,
Karur District – 639 111.

..Petitioner

Vs.

- 1.The Commissioner of Commercial Taxes,
O/o The Principal and Special Commissioner,
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.
- 2.The State Tax Officer,
Adjudication & Legal,
O/o The Joint Commissioner (ST), (Intelligence),
Commercial Taxes Building, 2nd Floor,
S.F.No.00/1,7,8,46-Pudur “B” Village,
Erode – 638 002.
- 3.The State Tax Officer,
Inspection -II,
O/o The Joint Commissioner (ST)(Intelligence),
Commercial Taxes Building, 2nd Floor,
S.F.No.00/1,7,8,46-Pudur “B” Village,
Erode-638 002.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for records pertaining to impugned order of the 2nd respondent in Reference No.ZD330325086701I/2022-23 dated 13.03.2025 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.R.Sureshkumar
Addl. Govt. Pleader

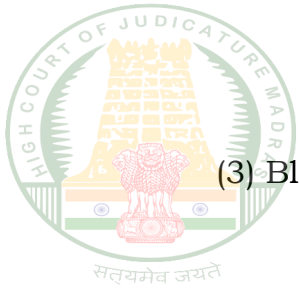
ORDER

Mr.R.Sureshkumar, learned Additional Government Pleader, takes notice for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is before this court against the impugned order in original in Form DRC-07 dated 13.03.2025, in proceeding bearing No.GSTIN: 33AUHPR0299M2Z2/2022-23. The impugned order is preceded by the office intimation in DRC-01A dated 23.07.2024 and a show cause notice in DRC-01 dated 01.08.2024 and a reply dated 30.08.2024. It is also preceded by the personal hearing.

3. It was also contended by the petitioner that the impugned order relates to following defects:

- (1) Excess claim of ITC (ITC Mismatch between GSTR 2A Vs 3B);
- (2) Tax Due Proposed on Short report of Outward supply;



(3) Blocked Credit u/s.17(5).

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4. As far as the third defect is concerned, the petitioner has admitted to the liability. As far as the defect No.1 is concerned, they paid the amount. As far as the defect No.3 is concerned, the petitioner has filed the document, which, according to the petitioner, has not been considered. The discussion after extracting the reply of the petitioner in respect of the defect Nos.2 and 3 are as follows:

“The tax payer has filed reply only. But the tax payer has not filed any supporting documents to prove their genuineness. Hence, in this circumstances the tax payer's reply could not be accepted and the demand proposed in the show cause notice is hereby confirmed u/s 74 of the TNGST Act 2017.”

5. A reading of the above indicates that the third respondent has scrupulously extracted the reply of the petitioner to the notice in DRC-01 dated 01.08.2024, the submission made during the personal hearing. However, there is no clear discussion in the impugned order. The order confirming the demand proposing a show cause that preceded it contained the reason for justifying the demand is unsustainable to that extent.

6. A reading of the above extracted paragraph indicates that there is hardly any discussion, even if there was application of mind. Even if there was an



application of mind, it should be reflected in the order. Therefore, the impugned order is set aside, and the case is remitted back to the respondent to pass a fresh order as far as the defect Nos.2 and 3 are concerned.

7. Since the issue pertains to the assessment year 2022-23, the respondent shall endeavor to pass a fresh order on merits within a period of three months from the date of receipt of a copy of this order. Needless to state that the petitioner shall be heard and a speaking order shall be passed within the time. It is made clear that the petitioner has to produce all the documents as evidence and substantiate his defence, failing which it is open to the respondent to confirm the demand based on the doctrine of preponderance of probability.

7. With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

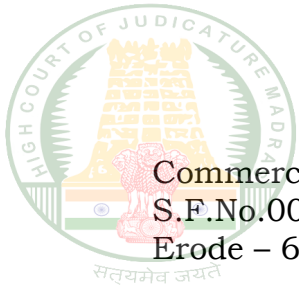
16.06.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
skn

To

- 1.The Commissioner of Commercial Taxes,
O/o The Principal and Special Commissioner,
of Commercial Taxes,
Ezhilagam, Chempauk,
Chennai – 600 005.
- 2.The State Tax Officer,
Adjudication & Legal,
O/o The Joint Commissioner (ST), (Intelligence),

6/8



Commercial Taxes Building, 2nd Floor,
S.F.No.00/1,7,8,46-Pudur “B” Village,
Erode – 638 002.

3. The State Tax Officer,
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