BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.16747 of 2025
and
W.M.P.(MD).Nos.12705 and 12707 of 2025

A.Johnson ... Petitioner

Vs.

The Assistant Commissioner of CGST & C.Ex.,

Tirunelveli Division,

Central Revenue Building,

Tractor Road, NGO A Colony,

Tirunelveli. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in Order-in-Original No.36/AC/GST/2024 dated 28.06.2024, issued by the respondent and quash the same is wholly without jurisdiction and clear violation of statutory provisions and direct the respondent to pass order afresh by considering the replies filed by the petitioner after affording the opportunity of personal hearing.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.R.Nandhakumar
Senior Standing Counsel

ORDER

This writ petition has been filed to quash the Order-in-Original No. 36/AC/GST/2024 dated 28.06.2024, issued by the respondent and consequently to direct the respondent to pass order afresh by considering the replies filed by the petitioner after affording an opportunity of personal hearing.

2.This writ petition is disposed of at the time of admission after hearing the learned counsel appearing for the petitioner and the learned Senior standing counsel appearing for the respondent.

3.The impugned order dated 28.06.2024 was preceded by a notice in D.R.C.No.01, dated 07.03.2023, which was also replied by the petitioner on

21.06.2024. Pursuant to the impugned order, the following demands have been confirmed against the petitioner:

> *i)I demand an amount of Rs.1,51,374 (CGST:Rs. 75,687 and SGST:Rs.75,687) (Rupees one lakh fifty one thousand three hundred and seventy four only) being the tax unpaid for the financial years 2019-20 to 2021022, as quantified in para 6.5, 6.6 and 6.7 above, under Section 74(9) r/w Sections 39 and 59 of the CGST Act, 2017, along with relevant provisions of TNGST Act, 2017.*
>
> *ii)I appropriate the amount of Rs.64,866 (CGST:Rs. 32,433 and SGST:32,433) (Rupees sixty four thousand eight hundred and sixty six only) already paid by the tax payer, as discussed in para 6.6 and 6.7 above, against the tax demanded in Sl.No.(i) above;*
>
> *iii)I demand interest at applicable rates on the amount demanded at (i) herein above, under Section 74(9) r/w Section 50(1) of the CGST Act, 2017 along with relevant provisions of TNGST Act, 2017;*
>
> *iv)I impose a penalty of Rs.1,51,374 (CGST:Rs. 75,687 and SGST:Rs.75,687) (Rupees one lakh fifty one thousand three hundred and seventy four only) equivalent to the amount demanded in (i) above, under Section 74(9) r/w Section 122(2)(b) of the CGST Act, 2017, along with the relevant provisions of TNGST Act, 2017.*

4.Instead of filing an appeal against the impugned notice, the petitioner has allowed to order to remained. Thus the petitioner is required to pay the differential amount of Rs.86,508/- towards tax, Rs.1,51,374/-, towards penalty and interest, which remained has to be quantified under Section 50(1) of the CGST, 2017. It is noticed that the petitioner is an assessee, who is assessed by the respondent. Therefore, the impugned order has been passed by the respondent within the jurisdiction. However, it is noticed that the impugned demand covers a period between 2017-18 and 2020-21. It appears that the State Authority had also inspected the premises of the petitioner and issued Show Cause notice bearing in Ref.No.ZD33052425559562, dated 27.05.2024 for the assessment year 2019-20. Pursuant to which, the petitioner has deposited the following payments:

Sr. No.	***Tax Period***	***Act***	***Place of Supply***	***Tax/ Cess***	***Total***	***Ledger utilised (cash/credit)***	***Debit entry no.***	***Date of debit entry***
1.	Apr 2019- Mar 2020	CGST	Tamil Nadu	534,902.00	534,902.00	Cash/Credit	DC3308240377981/DI3308240552913	22/08/2024
2.	Apr 2019- Mar 2020	SGST	Tamil Nadu	1,441,502.00	1,441,502.00	Cash/Credit	DC3308240377981/DI3308240552913	22/08/2024

5.There is an overlap in the jurisdiction assumed by both the Central authority and State authority. There is a *prima facie case* that the petitioner refused to pay the higher amount for the tax period 2019-20. Although the issue regarding the jurisdiction is now pending before the Division Bench of this Court pursuant to the order passed by this Court in Varthaman Industries, this Court is inclined to set aside the impugned order and remits the case back to the respondent.

6.Accordingly, the impugned order passed by the respondent in Order-in-Original No.36/AC/GST/2024, dated 28.06.2024, is set aside and remits the case back to the respondent to pass fresh order considering the payments made by the petitioner pursuant to the procedure dated 22.08.2024. The said exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The petitioner shall file reply to the show cause notice that preceded the impugned order by treating the impugned order as corrigendum to the show cause notice. The respondent shall endeavour to pass fresh orders on merits and in accordance with law. It is needless to state that before passing final orders, the petitioners shall be heard.

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

23.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
vsg

<u>To</u>

The Assistant Commissioner of CGST & C.Ex.,
Tirunelveli Division,
Central Revenue Building,
Tractor Road, NGO A Colony,
Tirunelveli.

C.SARAVANAN, J.

vsg

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