BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD) No.17724, 17725, 17726 and 17727 of 2025
and
W.M.P(MD) Nos.13529, 13531, 13534, 13535, 13556, 13557, 13580, 13581 of 2025

S.Sekar ... Petitioner in all the cases

Vs.

1.The State Tax Officer,
Pattukottai I Assessment Circle,
Pattukottai.

2.The Appellate Deputy Commissioner (ST),
Trichy and Vellore Division,
2nd Main Road,
Ponnagar, Trichy -1. ...Respondents in all the cases

Prayer in W.P(MD) No.17724 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondent in GSTIN:33CIFPS7310Q1ZS/2017-18 dated 29.09.2023 and quash the same as illegal, arbitrary, against the provisions of law and against the principles of natural justice.

Prayer in W.P(MD) No.17725 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondent in GSTIN:33CIFPS7310Q1ZS/2018-19 dated 29.09.2023 and quash the same as illegal, arbitrary, against the provisions of law and against the principles of natural justice.

Prayer in W.P(MD) No.17726 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondent in GSTIN:33CIFPS7310Q1ZS/2019-20 dated 29.09.2023 and quash the same as illegal, arbitrary, against the provisions of law and against the principles of natural justice.

Prayer in W.P(MD) No.17727 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondent in GSTIN:33CIFPS7310Q1ZS/2020-21 dated 29.09.2023 and quash the same as illegal, arbitrary, against the provisions of law and against the principles of natural justice.

For Petitioner in all the cases	: Mr.A.Chandrasekaran
For Respondents in all the cases	: Mr.J.K.Jeyaselan Government Advocate

ORDER

By this Common order, all these Writ Petitions have been disposed of at the time of admission after hearing the learned counsel for the petitionr and the learned counsel for the respondents.

2. In these Writ Petitions, the petitioner has challenged the impugned assessment orders in Form GST DRC 07, dated 29.09.2023 for the assessment year 2017 -18, 2018-2019, 2019-2020 and 2020-2021. As far as the assessment years 2017-18, 2018-19, 2019-20 are concerned, the petitioner had not only disputed the tax but also the penalty. As far as the assessment year 2020-21 is concerned, though it is the case of the petitioner that the petitioner had disputed the tax, the fact remains that the petitioner had paid the tax before the order was passed and only the penalty and interest remains to be paid. Against these orders, the petitioner had filed a statutory appeal beyond the condonable period of limitation under Section 107 of respective GST Act with delay of 20 to 30 days. The appellate commissioner has rightly rejected the same following the decisions made by the Hon'ble Supreme Court in ***Singh enterprises Vs CCE*** reported in ***(2008) 3 SCC 70*** and in the case of ***CCE and Customs Vs.Hongo India (P) Limited*** reported in ***(2009) 5 SCC 791.***

3. Therefore, the petitioner is before this Court challenging the impugned orders in GST DRC 07, dated 29.09.2023. This Court has come to rescue the petitioner under similar circumstances, where the parties failed to reply to the proceedings, considering the fact that the parties may have a case on merits by quashing the assessment orders on terms. This is the consistent view that has

been followed in number of cases and department has also accepted the same.

4. The learned counsel for the petitioner is also agreeable for depositing 15% of the disputed tax additionally over and above 10% of the disputed tax that was already paid at the time of filing an appeal before the Appellate Commissioner. However, the learned counsel for the petitioner would submit that the petitioner has paid the disputed tax for the assessment year 2020-21. The payment of 10% amounts towards penalty alone may be considered sufficient for remanding the case back.

5. Having considered the submission made by the learned counsel for the petitioner and the learned counsel for the respondents and following the consistent view of this Court under similar circumstances, the impugned orders passed by the first respondent are quashed and the case is remitted back to the respondents subject to the following conditions:

(i) the petitioner shall deposit net of 25% of the disputed tax after adjusting the amount already had pre-deposited at the time of filing the appeal.

In other words, the petitioner shall deposit 15% of the disputed tax for the assessment year 2017-18, 2018-19 and 2019-20. As far as the assessment year 2020-21 is concerned, the petitioner shall deposit 15% of the disputed penalty over and above 10% of the same already deposited, if the petitioner has not deposited 25% of the disputed penalty, since the tax has already been paid. Needless to state, if the petitioner had not admitted the tax liability prior to the passing of the assessment orders, dated 29.09.2023, the same shall be considered in accordance with law.

6. The impugned order, which stands quashed shall be treated as addendum to show cause notice. The petitioner shall file a reply within a period of 30 days from the date of receipt of copy of this order together with payment. In case the petitioner fails to comply with either of the conditions, the respondents are at liberty to initiate the proceedings as against the petitioner in accordance with law, as if the Writ Petition was dismissed.

7. With the above direction and liberty, this Writ Petition shall stand disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

01.07.2025

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

Indu

<u>To</u>

The State Tax Officer (FAC),
Commercial Tax Building,
Aruppukottai.

C.SARAVANAN, J.

Indu

W.P(MD) No.17724 to 17727 of 2025

01.07.2025