BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.07.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 18375 of 2025
and
W.M.P.(MD) Nos.14101 & 14102 of 2025

M/s. IRISH Health Care,
Rep., by its Proprietor Selvam. ... Petitioner

Vs

1. The Appellate Deputy Commissioner (ST)(GST),
Trichy.

2. The Deputy State Tax Officer-2,
Rockfort Assessment Circle,
Trichy. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pursuant to order of the second respondent in GSTIN.33CKTPS8722E1ZP/2017-18 dated 20.02.2024 for the assessment year 2017-18 and quash the same as unconstitutional.

For petitioner : Mr. J.Sivaram

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

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ORDER

This Writ Petition is disposed of at the time of admission with the consent of the learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

2. The petitioner has challenged the impugned order, dated 20.02.2024 passed by the second respondent for the Assessment Year 2017-18, pursuant to the notice in DRC 01 dated 30.09.2023.

3. It is the case of the petitioner that the petitioner has also suffered an order for the same period in the hands of the Central Authority on 05.12.2023 and the petitioner has filed an appeal before the Appellate Commissioner under the provisions of the Central GST Act, 2017 r/w relevant Rules.

4. It is submitted that there is no justification in passing two orders, one by the Central Authority on 05.12.2023 and other by the State Authority on 20.02.2024.

5. I have considered the arguments advanced by the learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

6. This Court has already passed an order in ***Tvl.Varadhan Infraastructure vs. The Special Secretary*** in the batch of cases in the Writ Petitions in W.P.No. 34792 of 2019 and etc., batch, on 15.09.2023. There, a cautious order was passed, wherein the interest of the assessee and the revenue was balanced as follows:

> *"68. Therefore, while quashing the impugned proceedings, there shall be a direction to the Central Authority/State Authority as the case may be to whom the respective petitioners have been assigned for administrative purpose to initiate appropriate proceedings afresh against them strictly in accordance with the provisions of the respective GST Enactments and GST Enactments Rules and Circular issued thereunder. The time between the initiation of the proceedings impugned in these writ petitions and time during the pendency of the present writ*

petitions till the date of receipt of this order shall stand excluded for the purpose of computation of limitation."

7. However, it is informed that the aforesaid order has been stayed by the Hon'ble Division Bench of this Court in W.A.No.1805 of 2024, dated 28.06.2024. It also appears that Kerala High Court has also taken a contrary view.

8. Even if the petitioner's appeal against the order, dated 05.12.2023 is allowed, the proceedings initiated against the petitioner by the respondent under whom the petitioner is being assessed, cannot be challenged on the ground of jurisdiction. Therefore, to balance the interest of the parties, I am inclined to set aside the impugned order, dated 20.02.2024 on terms, subject to the petitioner depositing 15% of the disputed tax, as the petitioner would have already deposited 10% of the disputed tax at the time of filing an appeal against the order dated 05.12.2023.

9. In case the petitioner has made such deposit at the time of filing of an appeal against the order, dated 05.12.2023, the petitioner shall deposit only 15%

as the balance of the difference in the tax. Subject to the petitioner depositing the aforesaid amount within a period of thirty (30) days from the date of receipt of a copy of this order, the impugned order shall stand quashed.

10. The impugned order shall be treated as corrigendum to the notice in Form GST DRC 01, dated 30.09.2023. The petitioner shall file a reply within a period of thirty (30) day from the date of receipt of a copy of this order, together with said pre-deposit.

11. The respondent shall, thereafter, pass a fresh order on merits and in accordance with law as expeditiously as possible preferably within a period of three (3) months, after hearing the petitioner.

12. Needless to state, since the petitioner has filed an appeal against the order dated 05.12.2023 before the Appellate Authority on 10.05.2024, there shall be also a direction that the appeal filed by the petitioner on 10.05.2024 against the order, dated 05.12.2023 shall also be disposed of within a period of three (3) months from the date of receipt of a copy of this order.

13. This Writ Petition is disposed of, with the above observations. No costs.

Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

07.07.2025

To

1. The Appellate Deputy Commissioner (ST)(GST),
Trichy.

2. The Deputy State Tax Officer-2,
Rockfort Assessment Circle,
Trichy.

C.SARAVANAN, J.

apd

W.P.(MD) No. 18375 of 2025

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