BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)Nos.20950 and 20951 of 2025
and
W.M.P(MD)Nos.16220 and 16222 of 2025

W.P(MD)No.20950 of 2025

Tvl.B.Senthilkumar
Contractor,
GSTIN 33CMNPS5995P2ZQ,
1st Floor, 15/1A, Sabari Illam,
Arulmigu Sri Muthumari Amman Alayam,
Puthur, Tiruchirappalli – 620017. ... Petitioner

Vs.

The State Tax Officer,
Office of the Assistant Commissioner (ST),
Woraiyur Assessment Circle,
C/2, 2nd Floor, 2nd Cross West,
Thilai Nagar, Trichy – 620018. ...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 on the file of the Respondent in GSTIN 33CMNPS5995P2ZQ/2021-22 dated 29.03.2025 for the assessment year 2021-22 under section 74 of TNGST Act 2017 and quash the both as arbitrary, illegal, and contrary to the provisions of the TNGST Act, 2017 and consequently, direct the Respondent to re-adjudicate the matter afresh, after duly considering the nature of works contract executed by the Petitioner and by strictly following the principles laid down by the Honble Madras High Court in the case of STS-KEC(JV) v. State Tax Officer, (2025 (96) G.S.T.L304 (mad)], which recognizes the applicability of the concessional GST rate of 12% for original works pertaining to railways.

For Petitioner : Mr.N.Sudalai Muthu

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

W.P(MD)No.20951 of 2025

Tvl.B.Senthilkumar
Contractor,
GSTIN 33CMNPS5995P2ZQ,
1st Floor, 15/1A, Sabari Illam,
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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 on the file of the Respondent in GSTIN 33CMNPS5995P2ZQ/2022-23 dated 29.03.2025 for the assessment year 2022-23 under section 74 of TNGST Act 2017 and consequential rejection proceedings dated 03.07.2025 under section 161 of the TNGST Act 2017 and quash the both as arbitrary, illegal, and contrary to the provisions of the TNGST Act, 2017 and Consequently, direct the Respondent to readjudicate the matter afresh, after duly considering the nature of works contract executed by the Petitioner and by strictly following the principles laid down by the Honble Madras High Court in the case of STS-KEC(JV) v. State Tax Officer, (2025 (96) G.S.T.L304 (mad)], which recognizes the applicability of the concessional GST rate of 12% for original works pertaining to railways.

For Petitioner : Mr.N.Sudalai Muthu

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

COMMON ORDER

By this common order, these writ petitions are taken up for final disposal.

2. In W.P(MD)No.20950 of 2025, the petitioner has challenged the impugned assessment order dated 29.03.2025 for the assessment year 2021-2022.

3. In W.P(MD)No.20951 of 2025, the petitioner has challenged the impugned assessment order dated 29.03.2025 for the assessment year 2022-2023.

4. The specific case of the petitioner is that the petitioner is providing service to the railway authorities and therefore he claims exemption under Serial No.3(v)(a) of Notification No.11/2017-CT(Rate), dated 28.06.2017.

5. On the other hand, the Department has confirmed the demand by imposing a higher rate of tax in terms of the amendment to Central Notification No.15/2021-CT (Rate) dated 18.07.2021 as amended by Notification No.22/2021-CT(Rate) dated 31.12.2021. Notification No. 15/2021-CT dated 18.07.2021 was made effective from 01.01.2022.

6. It is noticed that the supply to railway entities has already been held to be liable for a concessional rate of tax under Serial No.3(v)(a) of Notification No.11/2017-CT(rate) dated 28.06.2017 and it is now covered by the decision of this Court in the case of ***STS-KEC(JV) v. State Tax Officer,*** reported in ***2025 (96) G.S.T.L304 (mad***). The relevant portion of the order reads as under:

> *18. Construction that leads to Consistency:*
> *18.1. The impugned order places reliance upon the Advance Ruling Authority in Re: M/s SKG-JK-NMC(JV),2021 (1) TMI 425 ,over looking the fact that the above AAR has been overruled by the Appellate Advance Ruling Authority in Re: M/s.SKG-JK-NMC Associates (JV), 2021 (10) TMI 152 and thus the impugned order suffers from error apparent on the face of the record thus stands*

vitiated. Importantly there are Advance Ruling Authorities of other States wherein similar if not identical contracts have been found to be covered under the very same entry in terms of the above notification, some of them being:

Clauses (Indian Railways Act)	***Case Title***	***Relevant Paragraph/Ruling***
Section 2 (31)(d) – Construction, supply, installation, testing and commission of electrification, signalling, and telecommunication and associated with double track.	*Order No. KAR ADRG 93/2019 (Quatro Rail Tech Solutions Ltd) by Karnataka (27/09/2019)*	*The contract work of the applicant to the main contractor, who is executing the works contract to M/s. DRCCIL, is liable to tax at 6% under CGST Act and at 6% under KGST Act or 12% under IGST Act, 2017. The relevant entry is entry no. 3(v) of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 20/2017- Central Tax (Rate) dated 22.08.2017.*
Section 2(31) (b) – project management consultant for the construction of railway infrastructure including the commissioning of the Railway system to handle coal and oil fuel traffic of RTPS	*Order 27WBAAR/2018-19 (Rites Limited) by West Bengal AAR (05/10/2018)*	*Construction of a private railway siding for the carriage of coal and oil fuel to Raghunathapur TPS, as described in the agreement between the applicant and DVC, is a composite supply of works Contract, taxable at 12% under Serial No 3(v)a of Notification No 11/2017-CT(Rate) dated 28.06.2017*

Section 2 (31) (d) – works contract supplied by way of construction, erection, commissioning or installation of original works pertaining to railways	*Order No.MAH/AAAR/SS-RJ/15/2018-19 Shree Construction Maharashtra AAAR Order (03/01/2019)*	*Thus, the condition specified under item (v) of SR 3 of the said notification is completely fulfilled and therefore the service provider by sub-contractor would attract a concessional rate of 12% GST*
Section 2 (31) (b), 2(31)(d) – Works Contract by way of construction, erection, commission, installation, completion, fitting out, repair, maintenance, renovation or alteration of a structure including for educational, clinical or cultural establishment or a road bridge, tunnel, etc.,	*STC/AAR/03/2020/41 Dee Vee Projects by Chhattisgarh (08.10.2020)*	*The rate of tax applicable to the composite supply of works contract as defined in Clause 119 of Section 2 of CGST 2017 is 18% till 21/08/2017 a stipulated under Notification No 11/2017 – Central Tax (rate) dated 28/062017 and is 12% thereafter, with effect from 22/08/2017*

18.2. It is trite law that consistency in law is as important as correctness, if not greater as held in Paper Products LTO vs. Commissioner of Central Excise reported in (1999) 7 SCC 84, the relevant portion of which is extracted hereunder:

*"**4.** ..... Consistency and discipline are, according to this Court, of far greater importance than the winning or losing of court proceedings...."*

18.3. Thus the impugned order being contrary to Appellate Advance Ruling and Advance Ruling Authorities referred above would lead to uncertainity and inconsistency which ought to be avoided.

18.4. In view thereof, the impugned orders are set aside and the contract for doubling of track between Vanchi Maniyachchi to Nagercoil, construction of roadbed, minor bridges, platforms, buildings, water and effluent treatment facilities, wagon / coaching maintenance infrastructure, supply of ballast, installation of tracks and other electrical, signalling and telecommunication infrastructure in Madurai and Thiruvananthapuram Divisions of Southern Railway, between the petitioner and RVNL would be covered by Notification 11 of 2017 CGST (RATE) dated 28.06.2017 as amended vide Notification No.20/2017 dated 22.08.2017, Notification No.8 of 2017 Integrated Tax (Rate) dated 28.06.2017 and G.O.Ms.No. 94 dated 22.8.2017 CT & RE and liable to tax at 12%.

19. Accordingly, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

7. The matter would require reconsideration considering the fact that the petitioner had rendered service partly to Railway Nigam Limited.

8. It is the specific case of the petitioner that the service rendered to Kalpataru Projects International Limited is also railway entity and therefore it is liable for a concessional rate of tax under Serial No.3(v)(a) of Notification No.11/2017-CT(Rate), dated 28.06.2017.

9. Considering the same, the impugned order is quashed and the case is remitted back to the respondents to pass fresh order on merits in the light of the order passed by this Court in the case of ***STS-KEC(JV)*** stated supra. This

exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

10. In the meanwhile, the petitioner shall file necessary documents to substantiate that Kalpataru Projects International Limited is also railway entity and supply made to Kalpataru Projects International Limited is also covered by Notification No.11/2017-CT(Rate), dated 28.06.2017 at Serial No. 3(v)(a).

11. The writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

04.08.2025

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

The State Tax Officer,
Office of the Assistant Commissioner (ST),
Woraiyur Assessment Circle,
C/2, 2nd Floor, 2nd Cross West,
Thilai Nagar, Trichy – 620018.

C.SARAVANAN, J.

sn

W.P(MD).Nos.20950 and 20951 of 2025

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