BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.07.2025**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) Nos.20150 to 20155 of 2025
and
W.M.P.(MD) Nos.15550, 15553, 15531, 15532, 15515, 15519, 15556, 15557, 15522 and 15525 of 2025

M/S.Balamore Estates Private Limited,
rep by its Managing Director,
Dr.Madan Kumar David ... Petitioner

/vs./

1.Assistant Commissioner of CGST & Central Excise,
No.7, Tractor Road, NGO. A Colony,
Tirunelveli 627 007.

2.The Superintendent,
CGST and Central Excise,
Nagercoil Range, Sivaraj Buildings,
Tower Junction,
Nagercoil. ... Respondents

PRAYER in W.P.(MD) No.20150 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in FORM GST DRC-07 Order in Original No.67/AC/GST/2024, DIN-20241259XO000000 FACE dated

31-12-2024 and the second respondent in FORM DRC-07 summary of ORDER in Reference No. ZD330425014754L , dated 02-04-2025 for the year 2017-18, both uploaded in the GST portal on 02-04-2025 and to quash the same and to direct the first respondent to issue separate assessment order and demand for 2017-18.

PRAYER in W.P.(MD) No.20151 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in FORM GST DRC-07 Order in Original No.67/AC/GST/2024, DIN-20241259XO000000 FACE dated 31-12-2024 and the second respondent in FORM DRC-07 summary of ORDER in Reference No. ZD330425014850R , dated 02-04-2025 for the year 2018-19, both uploaded in the GST portal on 02-04-2025 and to quash the same and to direct the first respondent to issue separate assessment order and demand for 2018-19.

PRAYER in W.P.(MD) No.20152 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in FORM GST DRC-07 Order in Original No.67/AC/GST/2024, DIN-20241259XO000000 FACE dated 31-12-2024 and the second respondent in FORM DRC-07 summary of ORDER in Reference No.ZD330425015074W , dated 02-04-2025 for the year 2019-20, both uploaded in the GST portal on 02-04-2025 and to quash the same and to direct the first respondent to issue separate assessment order and demand for 2019-20.

PRAYER in W.P.(MD) No.20153 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in FORM GST DRC-07 Order in Original No.67/AC/GST/2024, DIN-20241259XO000000 FACE dated 31-12-2024 and the second respondent in FORM DRC-07 summary of ORDER in Reference No. ZD3304250151017, dated 02-04-2025 for the year 2020-21, both uploaded in the GST portal on 02-04-2025 and to quash the same and to direct the first respondent to issue separate assessment order and demand for 2020-21.

PRAYER in W.P.(MD) No.20154 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in FORM GST DRC-07 Order in Original No.67/AC/GST/2024, DIN-20241259XO000000 FACE dated 31-12-2024 and the second respondent in FORM DRC-07 summary of ORDER in Reference No. ZD3304250151314 , dated 02-04-2025 for the year 2021-22, both uploaded in the GST portal on 02-04-2025 and to quash the same and to direct the first respondent to issue separate assessment order and demand for 2021-22.

PRAYER in W.P.(MD) No.20155 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in FORM GST DRC-07 Order in Original No.67/AC/GST/2024, DIN-20241259XO000000 FACE dated 31-12-2024 and the second respondent in FORM DRC-07 summary of ORDER in Reference No.ZD330425015166R , dated 02-04-2025 for the year 2022-23, both uploaded in the GST portal on 02-04-2025 and to quash the same and to direct the first respondent to issue separate assessment order and demand for 2022-23.

For Petitioner
in all W.Ps., : Mr.S.Karunakar

For Respondent
in all W.Ps., : Mr.N.Dilip Kumar
Senior Standing Counsel

COMMON ORDER

Mr.N.Dilip Kumar, learned Senior Standing Counsel takes notice for the respondent.

2.The petitioner has challenged the impugned assessment orders passed for the assessment years 2017-18 to 2022-23 on 31.12.2024 followed by a summary for each of the years, dated 02.04.2025.

3.It is the case of the petitioner that the law on the subject has now attained clarity in the context of composite notice and composite order under Section 74 of the respective GST enactment.

4.Specifically, a reference is made to the decision of the learned single Judge of this Court in W.P.Nos.33120 and 33164 of 2023 ***(Titan Company Limited Vs. The Joint Commissioner and others)*** dated 18.12.2023, which was affirmed by the Hon'ble Division Bench of this Court, by its order dated 21.03.2025 in W.A.Nos.2389 and 1397 of 2024.

5.It is further submitted that a similar view was also taken by the Karnataka High Court in W.P.No.15810 of 2024 (T-Res) ***(M/S.Veremax Technologie Services Limited Vs. the Assistant Commissioner of Central Tax)***, dated 04.09.2024, wherein, the views of the Writ Court in *Titan Company's case* was taken to a different level by referring to the decision of the Hon'ble Supreme Court in ***State of Jammu and Kashmir and others Vs. Caltex (India) Ltd***., reported in ***AIR 1996 SC 1315***.

6.The learned counsel also drew a reference to a decision of Kerala High Court in ***Joint Commissioner (Intelligence and Enforcement) Vs. Lakshmi Mobile Accessories***, ***(2025) 171 taxmann.com 214***, wherein, the views of the Karnataka High Court in W.P.No.16500 of 2024 ***(Bangalore Golf Club Vs.***

Assistant Commissioner of Commercial Taxes) and that of the Writ Court in W.P.Nos.33120 and 33164 of 2023 ***(Titan Company Limited Vs. Joint Commissioner of GST)*** were affirmed.

7.It is submitted that the Kerala High Court in W.A.No.627 of 2025 ***(M/S.Tharayil Medicals Vs. The Deputy Commissioner and another)***, dated 08.04.2025 has followed the earlier views in ***Joint Commissioner (Intelligence and Enforcement) Vs. Lakshmi Mobile Accessories***, ***(2025) 171 taxmann.com 214*** and that of another decision of the learned single Judge of this Court in W.P.No.17239 of 2025 ***(Ms R A and Co Vs. The Additional Commissioner of Central Taxes)***, dated 21.07.2025, following the earlier views in *Titan Company's case*.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned senior standing counsel for the respondent.

9.Sections 73 and 74 of the respective GST enactments are inspired from Section 11-A and proviso to Section 11A of the Central Excise Act, 1944, Section

73 and proviso to Section 73 of the Finance Act, 1994 and Section 28 and proviso to Section 28 of the Customs Act, 1962.

10.The entire architecture of the GST enactments and the Rules made thereunder are inspired primarily from the above 3 enactments and the Rules made thereunder and partly from the provisions of various VAT laws, which were in force in various States from the year 2005 till 30.06.2017.

11.Only under the VAT Enactment in the Income Tax enactments and formerly under the General Sales Tax enactments of the respective States, which were replaced by VAT enactment in the States, assessments were made separately for each assessment years.

12.The provisions were self-contained. However, as far as the composite notices are concerned, the same is not new in the tax jurisprudence under the three Central Indirect Tax enactments, namely, Central Excise Act, 1944, the Finance Act, 1994 and Customs Act, 1962. In fact, the law regarding invocation of extended period of limitation is well settled under the proviso to Section 11A (formerly Section 11 of the Central Excise Act, 1944).

13.The Hon'ble Supreme Court has held that if a notice has been issued for a normal period of limitation, then, the notice for extended period of limitation cannot be issued. This was held by the Hon'ble Supreme Court in ***Nizam Sugar Factory Vs. Collector of Central Excise, A.P.,*** reported in ***(2006) 11 SCC 573***.

14.The indirect fallout of the decisions of the other Courts cited may indirectly benefit the assessee, although it was not the intention of the Court when it first passed the order in *Titan Company's case*. In *Titan Company's case*, the Court felt that it may be pragmatic to issue separate notices.

15.The Karnataka High Court however has taken the views of this Court to different level, by quashing the show cause notice altogether without any liberty to the Department to issue a fresh notice. The respective GST enactment do not mandate issuance of a separate notice if extended period of limitation is to be invoked under Section 74 of the respective GST enactment, if the situation contemplated under Section 74 (formerly under Section 11A, 17(3) and 28 of the respective Central Enactments referred to supra) is made out. In fact, now Section 74A has been replaced Sections 73 and 74 of the respective GST enactments, vide Finance (No2) Act, 2024 (15 of 2024) dated 16.08.2024.

16.Considering the same, there is no scope for quashing the impugned orders, dated 31.12.2024 and the corrigendum dated 02.04.2025. In fact, the Division Bench of the Bombay High Court has also taken a contra view in ***Riocare India Pvt Ltd., Vs. Assistant Commissioner CGST and C.Ex***., ***(2025) 26 Centax 339 (Bom.)***.

17.At this stage, the learned counsel for the petitioner seeks liberty to file a statutory appeal against the assessment orders dated 31.12.2024 read along with the corrigendum dated 02.04.2025.

18.It is submitted that the limitation for filing the appeal could have expired if 31.12.2024 is the date for reckoning the limitation. It is noticed that the summary has been issued on 02.04.2025. Therefore, the normal period of limitation in filing the appeal would have expired on 02.07.2025.The petitioner will still have few days more for filing the application for condoning the delay.

19.In my view, liberty is granted to the petitioner to file an appeal within a period of 30 days from today. In case, such an appeal is filed within such time by the petitioner, the same shall be entertained by the appellate Commissioner and disposed of on merits, considering the fact that the petitioner has already paid 100% of the tax, 92% of the interest and 25% of the penalty.

20.With such liberty, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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28.07.2025

C.SARAVANAN, J.

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