BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.07.2025**

CORAM:

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

W.P.(MD) No.20664 of 2025
and
W.M.P.(MD) No.15996 of 2025

Tvl.M.Malar ... Petitioner

/vs./

The State Tax Officer,
Office of the Assistant Commissioner (ST),
Tuticorin III Assessment Circle,
Commercial Taxes Building,
North Beach Road,
Tuticorin 628 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to impugned assessment order issued by the 1st respondent in GSTIN 33CPTPM3703G1ZU/2020-21 dated 15/02/2025 and quash the same as arbitrary and illegal and direct the respondent to pass an assessment order afresh after affording the opportunity of personal hearing.

For Petitioner : Mr.N.Sudalai Muthu

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

ORDER

Mr.R.Suresh Kumar, learned Additional Government Pleader takes notice for the respondent.

2.The writ petition has been filed challenging the impugned assessment order passed by the first respondent bearing Ref.No.GSTIN 33CPTPM3703G1ZU/2020-21, dated 15/02/2025, and for a consequential direction to the respondent to pass an assessment order afresh after affording an opportunity of personal hearing to the petitioner.

3.It is informed by the learned counsel for the petitioner that the impugned order has preceded a show cause notice dated 22.11.2024, which was however not intimated to the petitioner, although the same is referred to in the impugned order.

4.The fact remains that the petitioner neither replied to the said show cause notice nor participated in the proceedings pursuant to the personal hearing notices that were issued to the petitioner. The dispute has arisen primarily on account of the discrepancy between the data in GSTR 2A and GSTR 3B.

5.The case of the petitioner is that the petitioner is an Importer of Seashell for Handicraft purpose and had paid IGST. It is submitted that the data is captured in GSTR 3B but not in GSTR 2A, as there is no supplier independent of the petitioner, as the petitioner is an Importer.

6.*Prima facie*, the petitioner appears to have made out a case for interference. That apart, it is noticed that part of the amount has already been recovered pursuant to the impugned order and that the petitioner deserves to fresh opportunity.

7.Consequently, the impugned assessment order passed by the respondent, dated 15.02.2025 bearing Ref.No.GSTIN:33CPTPM3703G1ZU/2020-21 is set aside and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law. The petitioner shall file a reply to the show cause notice issued earlier, within a period of 30 days from the date of receipt of a copy of this order.

8.The respondent shall endeavour to pass final orders as expeditiously as possible, preferably, within a period of three months thereafter, subject to the petitioner filing a reply to the show cause notice issued earlier as stated above, failing which it will be deemed as if the Writ Petition was dismissed.

9.While passing the orders, the respondent shall consider the decision of this Court rendered in ***Xavier Timber Vs. State Tax Officer*** reported in ***(2024) 164 taxmann.com425 (Madras)***, wherein it para Nos.8 to 10, it has been stated as under:-

> *"8.Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent and considering the fact that there is no scope for auto population of the Input Tax Credit on IGST, the Court is inclined to come to rescue the petitioner by quashing the impugned order and remitting the case back to the respondent to pass fresh orders.*
>
> *9.The impugned order, which stands quashed, shall be treated as addendum to the show cause notice in GST DRC 01 dated 10.08.2023.*
>
> *10.The petitioner shall filed reply to the show cause notice that preceded the impugned order within a period of 30 days from the date of receipt of a copy of this order. The respondent shall pass a fresh orders on merit and in accordance with law as expeditiously as possible preferably within a period of three months thereafter. Needless to state, before passing the order, the petitioner shall be heard.*
>
> *11.Considering the fact that the petitioner's bank account has been attached and since the petitioner has a liberty to approach the*

respondent to pass fresh orders, there shall be an order of lifting the attachment of the bank account of the petitioner by the respondent.

This Writ Petitioner is disposed of, with above directions. No costs. Consequently, connected miscellaneous petition is closed."

10.With the aforesaid directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No

30.07.2025

Internet : Yes / No

mm

To

The State Tax Officer,
Office of the Assistant Commissioner (ST),
Tuticorin III Assessment Circle,
Commercial Taxes Building,
North Beach Road,
Tuticorin 628 001.

C.SARAVANAN, J.

mm

W.P.(MD) No.20664 of 2025

30.07.2025