BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.21634 of 2025
and
W.M.P.(MD)No.16730 of 2025

Nanguneri Radhapuram Taluks Agricultural
Co-Op Marketing Society Ltd.,
Rep. by its General Manager,
V.Pathrakali alias Padma,
No.120/32-AB, T.B. Road,
Valliyoor, Tirunelveli District. ... Petitioner

-vs-

The Assistant Commissioner of Central GST
and Central Excise,
Office of the Assistant Commissioner of CGST and
Central Excise,
No.7, Tractor Road,
NGO 'A' Colony,
Tirunelveli – 627007. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the respondent vide his order in Original No. 66/AC/GST/2024, dated 17.12.2024 and quash the same as it is illegal without jurisdiction and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of the GST Act.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

The petitioner is before this Court challenging the impugned Order-in-Original No.66/AC/GST/2024, dated 17.12.2024, passed in respect of the tax period from 2017-2018 to January 2024.

2. By the impugned order, a sum of Rs.1,86,80,002/- has been confirmed as tax due from the petitioner for the aforementioned period. While passing the said order, a sum of Rs.72,83,866/-, which had already been paid, was appropriated. Consequently, interest under Section 50 of the respective GST enactments has been levied. An amount of Rs.3,74,718/- was also paid towards interest. Additionally, the petitioner has been subjected to a penalty equal to the tax amount, *i.e.,* Rs.1,86,80,002/-. The operative portion of the impugned order reads as under:-

"(i) I confirm the demand of an amount of Rs.1,86,80,002 (Rupees One Crore Eighty Six Lakh Eighty Thousand and Two only), [CGST Rs.93,40,001/-and SGST Rs.93,40,001/-] for the period 2017-18 to Jan. 2024 as tabulated in para 2.3 above, under Section 74(9) of CGST/TNGST Act, 2017.

(ii) I appropriate an amount of Rs.72,83,866/- (Rupees Seventy Two Lakh Eighty Three Thousand Eight Hundred and Sixty Six only), [CGST Rs.36,41,933/- and SGST Rs.36,41,933/-] paid vide various DRC-03s as detailed in the table under para 4.2 against the amount demanded in Sl.No.(i) above.

(iii) I confirm the demand of Interest under Section 50 of the CGST/TNGST Act, 2017 on the amounts mentioned in Sl.No. (i) above.

(iv) I appropriate an amount of Rs.3,74,718/- (Rupees Three Lakh Seventy Four Thousand Seven Hundred and Eighteen only), [CGST Rs.1,87,359/- and SGST Rs.1,87,359/-], being interest towards CGST and SGST paid through various DRC03s as detailed in the table under para 4.2 against Sl.No.iii above.

(v) I impose a penalty of Rs.1,86,80,002 (Rupees One Crore Eighty Six Lakhs Eighty Thousand and Two only [CGST Rs.93,40,001/- and SGST Rs.93,40,001/-] under Section 74(9) of the CGST/TNGST Act, 2017 read with Sec. 122 of the CGST/TNGST Act, 2017."

3. Although the learned counsel for the petitioner submits that the petitioner did not participate in the proceedings, a reading of Paragraph 3.2 of the impugned order indicates that the petitioner had, in fact, submitted a written representation and also appeared for a personal hearing. Paragraph 3.2 of the impugned order reads as under:-

> *"3.2. Further, with the change of adjudicating authority and in keeping with the principles of natural justice, one more communication was sent to them under ref No.GEXCOM/ADJN/GST/4992/2024-CGST-Div.TNVL COMMRTE-MADURAI dated 26.11.2024 fixing a personal hearing by virtual mode on 11.12.2024. In the response to the above, tax payer filed a request for appearing physically for the PH vide their letter dated 11.12.2024 and appeared for the personal hearing, filed a written submission and stated the following points:*
>
> *- that they are registered co-operative society carrying on the activity of trading of ration supplies (both PDS and Non PDS);*
>
> *- that due to lack of knowledge regarding the tax aspects;*
>
> *- that most of the purchases, a delivery order is being issued by Tamil Nadu Civil Supplies Corporation and there is no tax invoice as not issued and they are not aware of the tax rates on the products supplied by them and they have raised tax invoices only for few products;*
>
> *- that because of the above there was a difference in the tax payment and they have recalculated and attached a reconciliation statement with accurate figures;*
>
> *- that in the initial years (2017-28 to 2019-20) they have failed to claim the ITC by which a huge amount of ITC has been left unclaimed due to lack of knowledge;*
>
> *- that they request for a week's time for payment of balance tax considering their previous payments."*

Thus, it cannot be contended that there was any violation of the principles of natural justice. However, the fact remains that the petitioner is aggrieved by the impugned order.

4. Considering the fact that the entire disputed tax amount has been subsequently paid by the petitioner on 13.01.2025, 24.01.2025, and 11.03.2025, totalling a sum of Rs.1,13,96,137/-, liberty is granted to the petitioner to file a statutory appeal within a period of 30 days from the date of receipt of a copy of this order. Needless to state, the petitioner shall not be required to make any further pre-deposit, as the disputed tax has already been paid.

5. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No **07.08.2025**
Index : Yes / No
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To:-

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C.SARAVANAN, J.

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