BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.08.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 22015 of 2025
and
W.M.P.(MD) Nos.17117 & 17118 of 2025

P. G. Metal,
rep. by its Proprietor Pratheesh. ... Petitioner

Vs

1. The Assistant Commissioner (ST),
Kuzhithurai Assessment Circle,
Kuzhithurai,
Kanniyakumari District.

2. The State Tax Officer - 6 (Ins),
Office of the Point Commission,
Thirunelveli,
Thirunelveli District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records, pertaining to the impugned order passed by the second respondent in GSTIN 33BYXPG2899B1Z2 / 2023-24, dated 26.02.2025 and quash the same as void and illegal and consequently, direct the second respondent not to impose penalty and interest on the basis of the documents submitted by the petitioner along with material evidences available.

For petitioner	: Mr. B. Char Murugan M/s.Char Murugan Law Associate
For respondents	: Mr.J.K.Jayaselan Government Advocate

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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 Government Advocate for the respondents.

2. The petitioner has challenged the impugned Assessment Order, dated 26.02.2025 bearing reference GSTIN 33BYXPG2899B1Z2 / 2023-24 for the assessment year 2023-24. The impugned order has preceded a notice in DRC 01A, dated 16.12.2024 and a Show Cause Notice in DRC 01, dated 24.12.2024 and also personal hearing notices, dated 23.01.2025, 03.02.2025 and 07.02.2025.

3. A reading of the impugned order indicates that the petitioner has not

replied to the Show Cause Notice in DRC 01, dated 24.12.2024. However, the petitioner appears to have appeared before the respondent on 24.02.2025, wherein the petitioner has explained the case. Operative portion of the impugned order reads as under:

> ***"Findings of the Adjudicating Officer:***
>
> *The tax payer's place of business was inspected by the Intelligence wing officials and found that the tax payer was indulging in issuing fake invoices with a view to pass fraudulent Input tax credits without any movement of goods. Also, they had claimed ITC in a fraudulent manner with bogus invoices without any receipt of goods. The tax payer also accepted the above said offences in their sworn statement before the inspecting officials and also confessed the same at the time of personal hearing. Hence, it is confirmed beyond any doubt that they have issued fake invoices without actual supply of goods with an intention to pass on ITC to the beneficiary and also claimed wrong ITC without actual inward supply of any goods."*

4. However, there are no records to indicate that this was in writing. Be that as it may, the petitioner has also been issued with the subsequent order under Section 122(1)(vii) of the respective GST enactments, whereby the penalty has been imposed on the petitioner. The reason given is that the petitioner has failed to appear. By the said order, penalty has also been imposed on the petitioner for a sum of Rs.2,00,736/- each for the violation of the provisions of the respective

GST enactments, namely, CGST Act, 2017 and SGST Act, 2017.

5. Since the petitioner has not replied to the Show Cause Notice in DRC 01, dated 24.12.2024, which preceded the impugned order, dated 26.02.2025, I am inclined to dispose of this Writ Petition in the light of the consistent view taken by this Court putting the petitioner on terms.

6. Considering the same, this Writ Petition is disposed of by quashing the impugned order on terms subject to the petitioner depositing 25% of the disputed tax in cash from the petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

7. The petitioner shall file a reply to the notice in DRC 01 dated 24.12.2024 by treating the impugned order as addendum to the Show Cause Notice.

8. In case the petitioner complies with the above stipulations, the second respondent shall proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of three (3) months

thereafter, after hearing the petitioner.

9. Consequently, the penalty proceedings, dated 06.03.2025 issued under Section 122 of the respective GST enactments is also set aside and the case is remitted back to the first respondent for passing a fresh order, subject to the petitioner filing such reply within a period of thirty (30) days from the date of receipt of a copy of this order.

10. In case the petitioner fails to comply with any of the conditions stipulated above, the respondents are at liberty to proceed against the petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

11. 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

12.08.2025

C.SARAVANAN, J.

apd

To

1. The Assistant Commissioner (ST),
Kuzhithurai Assessment Circle,
Kuzhithurai,
Kanniyakumari District.

2. The State Tax Officer - 6 (Ins),
Office of the Point Commission,
Thirunelveli,
Thirunelveli District.

W.P.(MD) No. 22015 of 2025

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