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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)No.22887 of 2025
and
W.M.P(MD)No.17969 of 2025

Shaji Baby John ... Petitioner

Vs.

Proper Officer/state Tax Officer, GST Department,
Office of the Commercial Tax,
Ettayapuram-628902,
Thoothukudi District. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned assessment order dated 31.12.2023 passed by the respondent in GSTIN 33ACTFS6713K1ZL/2017-2018 and quash the same as non-est in law, by holding that the said Impugned Assessment order is not legally sustainable and consequently directing the respondent herein to defer all further proceedings taken pursuant to passing the impugned Assessment order dated 31.12.2023.

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For Petitioner : Mr.B.Dhanaraj
For Mr.Rathina Asohan

For Respondent : Mr.J.K.Jayseelan
Government Advocate

ORDER

The petitioner has challenged the impugned assessment order dated 31.12.2023 passed for the assessment year 2017-2018.

2. The impugned order was preceded by a notice in DRC 01 dated 16.02.2023 and notice in GST ASMT-10 dated 25.02.2022 and notice in DRC 01A dated 02.05.2022. However, the petitioner failed to respond to the same and thus, suffered the adverse assessment order, dated 31.12.2023.

3. The petitioner has filed an application for rectification under Section 161 beyond the statutory period of limitation, which came to be dismissed on 27.12.2024.

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4. The case of the petitioner is that the petitioner is engaged in sales of fisheries items, which are exempted under Serial No.20 of Notification No.2/2017-CT (Rate) dated 28.06.2017. It is submitted that the petitioner came to know about the rejection of rectification order dated 05.04.2025 only after issuance of notice to the third party namely the Bank under Section 79(1) (C)(iii)(iv) and thus, the petitioner has approached this Court.

5. Prima facie, it appears that the petitioner may be exempted from payment of the respective Goods and Services Tax Enactments as per Serial No.20 of the Notification No.2/2017-CT (Rate) dated 28.06.2017 and corresponding notification issued by the State Government. However, whether the petitioner was indeed engaged in the sale and supply of items covered by Serial No.20 of the Notification No.2/2017-CT (Rate) dated 28.06.2017 cannot be decided by this Court.

6. Under similar circumstances, this Court has come to rescue the person like the petitioner by quashing the impugned order and remitting the case back to the original authority to pass fresh order on terms subject to payment of 25% of the disputed tax.

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7. Since the petitioner claims that the entire turn over is exempt from tax tax under Serial No.20 of the Notification No.2/2017-CT (Rate) dated 28.06.2017, I am inclined to dispose of this writ petition on terms.

8. The petitioner shall pay Rs.10,00,000/- within a period of 30 days from the date of receipt of a copy of this order.

9. The petitioner shall file a consolidated reply to the notice in DRC 01 16.02.2023 by treating the impugned order as addendum to the show cause notice. The respondent shall proceed to pass fresh order on merits as expeditiously as possible preferably within a period of two months after hearing the petitioner.

10. It is also made clear that in case the petitioner fails to comply with any of the conditions stipulated above, it will be deemed as if the Writ Petition was dismissed. In this case, it is open for the respondent to proceed to against the petitioner in accordance with the provisions of the respective GST enactments and the Rules made thereunder.

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11. The writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

22.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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<u>To</u>

Proper Officer/state Tax Officer, GST Department,
Office of the Commercial Tax,
Ettayapuram-628902,
Thoothukudi District.

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C.SARAVANAN, J.

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