BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.08.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 23234 of 2025
and
W.M.P.(MD) No.18259 of 2025

Tvl.Manavalakurichy Ire Manalalai Oppantha Thozhilalargal
Nala Sangam,
rep. by its President P.Suyambu. ... Petitioner

Vs

The State Tax Officer,
Thuckalay - 2 at Nagercoil Assessment Circle,
Commercial Tax Buildings,
Nagercoil. ... 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 of the impugned order in GSTIN 33AAAAM9788J2Z0/2018-19 dated 16.04.2025 for the assessment year 2018-19 passed by the respondent under Section 73 of the TNGST Act, 2017 and quash the same in so far as it denies refund of the excess amount which was coercively recovered from the petitioner's bank account and consequently, direct the respondent to forthwith sanction and disburse the legitimate refund due to the petitioner along with statutory interest under Section 56 of the TNGST Act.

For petitioner : Mr. N. Sudalai Muthu

For respondent : Mr.J.K.Jayaselan
Government Advocate

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ORDER

This Writ Petition is taken up for hearing at the time of admission with the consent of the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. This is the second round of litigation before this Court. Earlier, the petitioner had suffered an adverse order on 20.03.2023, which was successfully challenged by the petitioner in W.P.(MD) No.30824 of 2024, which was quashed *vide* order, dated 06.01.2025 of this Court. Pursuant to the aforesaid order of the Writ Court in the above case, the petitioner was issued with the notice dated 08.02.2025, which was also replied back by the petitioner on 17.02.2025.

3. Specific case of the petitioner is that the petitioner is indeed entitled to refund of the tax paid in excess, after deducting the amount that was earlier confirmed on 20.03.2023.

4. It is the case of the petitioner that there was a mistake while uploading relevant information in GSTR 1 for the tax period 2018-19.

5. It is submitted that though there was certain duplications, while filing the monthly return in GSTR 3B, the petitioner corrected the mistakes and paid the correct tax on the outward supply meant during 2018-19, which was also again reiterated and mistaken in GSTR 1 and also corrected in the annual return filed in GSTR 9 dated 22.04.2023. The respondent has however proceeded to issue notice in DRC 01 dated 05.01.2023, which culminated in the order dated 20.03.2023 pursuant to which the petitioner has paid tax, interest and penalty.

6. It is submitted that the amount was recovered from the petitioner's bank account. It is further submitted that the respondent is duty bound to refund the amount, as the amount was paid in excess. Only reason stated in the impugned

order that the last date for filing return in GSTR 9 expired on 31.12.2020 and since the return was filed in GSTR 9 dated 22.04.2023, the claim for refund was rejected.

7. *Prima facie,* the petitioner appears to have made out a case for refund, if the amount was paid in excess on account of the discrepancies in the informations uploaded by the petitioner in GSTR 1, which according to the petitioner stood corrected in GSTR 3B and in GSTR 9 in view of the Advisory Team of GSTN, wherein it has been stated as under:

> *"As per the Finance Act.2023 (8 of 2023), dt. 31-03-2023, implemented we.f 01-10-2023 vide Notification No. 28/2023 Central Tax dated 11th July, 2023, the taxpayers shall not be allowed file their GST return after the expiry of a period of three years from the due date of furnishing the said return under Section 37 (Outward Supply), Section 39 (payment of liability), Section 44 (Annual Return) and Section 52 (Tax Collected at Source). These Sections cover GSTR-1, GSTR 3B, GSTR-4, GSTR-5, GSTR-5A. GSTR-6, GSTR 7, GSTR 8 and GSTR 9.*
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> *Hence, above mentioned returns will be barred for filing after expiry of three years. The said restriction will be implemented on the GST portal from July 2025 Tax period. Hence, the taxpayers are once again advised to reconcile their records and file their GST Returns as soon as possible if not filed till now."*

8. However, the matter would require a detailed consideration by the Appellate Commissioner. Considering the same, this Writ Petition is disposed of by giving liberty to the petitioner to file an appeal challenging the impugned order, dated 16.04.2025 before the Appellate Commissioner within a period of thirty (30) days from the date of receipt of a copy of this order, who shall consider the same and dispose of the same on merits within a period of two (2) months thereafter. All the issues are left open to canvas before the Appellate Commissioner. No costs. Consequently, connected miscellaneous petition is closed.

28.08.2025

Index : Yes / No
Internet : Yes / No
apd

To
The State Tax Officer,
Thuckalay - 2 at Nagercoil Assessment Circle,
Commercial Tax Buildings,
Nagercoil.

C.SARAVANAN, J.

apd

W.P.(MD) No. 23234 of 2025

28.08.2025