BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.08.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.23186 to 23190 of 2025
and
W.M.P.(MD) Nos.18237, 18240, 18250, 18252, 18253, 18254, 18244, 18245, 18255, 18256 of 2025

Ambika ... Petitioner in all W.Ps

Vs.

1.Assistant Commissioner of CGST & Central Excise,
Tirunelveli Division,
Central Revenue Building,
Tractor Road,
N.G.O. 'A' Colony
Tirunelveli 627 007.

2.The Superintendent,
CGST & Central Excise,
Nagercoil Range,
Thuckalay Jurisdiction,
Sivaraj Buildings,
Tower Junction,
Nagercoil – 629 001.

3.The State Tax Officer,
Thuckalay – 1,

Kattathurai 629 158
Kanyakumari District.

4. The Joint Commissioner (Appeals),
BiBikulam,
Madurai ... Respondents in all W.Ps
(R4 is suo motu impleaded vide order dated 26.08.2025 in W.P(MD) Nos.23186 to 23190 of 2025)

PRAYER IN W.P.(MD)No.23186 OF 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in Order-in-Original No. 62/AC/GST/2024 DIN-20241059XO 000000005E7 and demand in GST DRC 07 order dated 21.10.2024 and the order of the second respondent in FORM GST DRC 07 summary of the order in reference No.ZD331124072291U, dated 11.11.2024 and quash the same as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice and consequently, direct the first respondent to pass fresh assessment order for 2017-18 after affording an opportunity to the petitioner to submit reply and personal hearing.

PRAYER IN W.P.(MD)No.23187 OF 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in Order-in-Original No. 60/AC/GST/2024 DIN-20241059XO 000000005E7 and demand in GST DRC 07 order dated 21.10.2024 and the order of the second respondent in FORM GST DRC 07 summary of the order in reference No.ZD331124072082X for 2018-19, dated 11.11.2024 and quash the same as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice and consequently, direct the first respondent to pass fresh assessment order for 2018-19 after affording an opportunity to the petitioner to submit reply and personal hearing.

PRAYER IN W.P.(MD)No.23188 OF 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in Order-in-Original No. 60/AC/GST/2024 DIN-20241059XO 000000005E7 and demand in GST DRC 07 order dated 21.10.2024 and the order of the second respondent in FORM GST DRC 07 summary of the order in reference No.ZD331124106070B for 2019-20, dated 14.11.2024 and quash the same as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice and consequently, direct the first respondent to pass fresh assessment order for 2019-20 after affording an opportunity to the petitioner to submit reply and personal hearing.

PRAYER IN W.P.(MD)No.23189 OF 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in Order-in-Original No. 60/AC/GST/2024 DIN-20241059XO 000000005E7 and demand in GST DRC 07 order dated 21.10.2024 and the order of the second respondent in FORM GST DRC 07 summary of the order in reference No.ZD331124106188S for 2020-21, dated 14.11.2024 and quash the same as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice and consequently, direct the first respondent to pass fresh assessment order for 2020-21 after affording an opportunity to the petitioner to submit reply and personal hearing.

<u>PRAYER IN W.P.(MD)No.23140 OF 2025:</u> Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in Order-in-Original No. 60/AC/GST/2024 DIN-20241059XO 000000005E7 and demand in GST DRC 07 order dated 21.10.2024 and the order of the second respondent in FORM GST DRC 07 summary of the order in reference No.ZD331124106293Z for 2021-22, dated 14.11.2024 and quash the same as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice and consequently, direct the first respondent to pass fresh assessment order for 2021-22 after affording an opportunity to the petitioner to submit reply and personal hearing.

For petitioner (in all W.Ps) : Mr. S.Karunakar

For respondents (in all W.Ps) : Mr.R.Gowri Shankar
Senior Standing Counsel for R1 & R2
Mr.R.Suresh Kumar
Additional Government Pleader for R3

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<u>COMMON ORDER</u>

By this common order, these five Writ Petitions have been disposed of at the time of admission with the consent of the learned counsel for the petitioner and learned Senior Standing Counsel for the respondents 1 and 2 and the learned Additional Government Pleader for the third respondent.

2. In these Writ Petitions, the petitioner has challenged the following orders passed by the first respondent, namely, Assistant Commissioner of the CGST Central Excise, Tirunelveli Division for the assessment years 2017-18 to 2021-22 as detailed below:

S. No	W.P.(MD) No.	Assessment year	Show cause notice	Impugned order	Amount demanded		
					CGST	SGST	Total
1.	23186/2025	2017-18	50/AC/GST/2022-23, dated 29.03.2023	Order-in-Original No. 62/AC/GST/2024 DIN-20241059XO000000005E7 and demand in GST DRC 07 order dated 21.10.2024	Rs.50,48,207/-	Rs.50,48,207/-	Rs.1,00,96,414/-
2.	23187/2025	2018-19	50/AC/GST/2022-23, dated 29.03.2023	Order-in-Original No. 60/AC/GST/2024 DIN-20241059XO000000005E7 and demand in GST DRC 07 order dated 21.10.2024	Rs.18,16,093/-	Rs.18,16,093/-	Rs.36,32,186/-
3.	23188/2025	2019-20	50/AC/GST/2022-23, dated 29.03.2023	Order-in-Original No. 60/AC/GST/2024 DIN-20241059XO000000005E7 and demand in GST DRC 07 order dated 21.10.2024	Rs.12,60,803/-	Rs.12,60,803/-	Rs.25,21,606/-
4.	23189/2025	2020-21	50/AC/GST/2022-23, dated 29.03.2023	Order-in-Original No. 60/AC/GST/2024 DIN-20241059XO000000005E7 and demand in GST DRC 07 order dated 21.10.2024	Rs.35,53,781/-	Rs.35,53,781/-	Rs.71,07,562/-

5.	23190/2025	2021-22	50/AC/GST/2022-23, dated 29.03.2023	Order-in-Original No. 60/AC/GST/2024 DIN-20241059XO000000005E7 and demand in GST DRC 07 order dated 21.10.2024	Rs.30,99,801/-	Rs.30,99,801/-	Rs.61,99,602/-
				Total	**1,47,78,685**	**1,47,78,685**	**2,95,57,370**

3. The case of the petitioner is that for the assessment year 2017-18, the amount that has been taxed was liable to be taxed under TNVAT Act, 2006, as the work was completed before 01.07.2017. However, the payments were received after the implementation of GST with effect from 01.07.2017.

4. As far as the delay in filing the appeal is concerned, it is submitted that the petitioner was unwell and therefore, the petitioner could not file an appeal in time and therefore, the petitioner has constrained to approach this Court as limitation has expired under Section 107 of respective GST enactments.

5. The learned counsel for the petitioner submits that the documents have not been furnished, despite the request to that effect on 10.05.2023, which was replied back on 15.06.2023 and thereafter, personal hearing was held on

16.05.2024. It is noticed that the petitioner has paid only a sum of Rs.1,83,871/- each towards CGST and SGST, which is miniscule part of the demand that has been confirmed by the first respondent for which limitation for filing the appeal has also been expired.

6. Ordinarily, this Court is inclined to dismiss the Writ Petition in view of the decision of the Hon'ble Supreme Court in the case of ***Singh enterprises Vs CCE*** reported in ***(2008) 3 SCC 70*** and in the case of ***CCE and Customs Vs.Hongo India (P) Limited*** reported in ***(2009) 5 SCC 791.***

7. However, the petitioner is willing to deposit 30% of the tax as a condition for taking up the appeal by the Appellate Authority. Since this would apply a generation of income to the Government and considering the fact that the petitioner may have a case on merits, which would have otherwise been entertained by the Appellate Authority, I am inclined to dispose of by giving liberty to the petitioner to file appeal within a period of fifteen (15) days from the date of receipt of a copy of this order before the Appellate Authority, namely, Joint Commissioner (Appeals), BiBikulam, Madurai, under Section 107 of

respective GST enactments subject to the petitioner depositing a sum of Rs.35,00,000/- (Rupees Thirty Five Lakhs only) within a period of 15 days from the date of receipt of a copy of this order.

8. Since the Joint Commissioner (Appeals), is not a party to this proceedings, Joint Commissioner (Appeals), BiBikulam, Madurai is *suo motu* impleaded as the fourth respondent in these Writ Petitions.

9. In case the petitioner complies with the above stipulations, the fourth respondent shall consider the petitioner's appeal without reference to the limitation on its turn.

10. Needless to state, the amount to be deposited by the petitioner will be subjected to final appropriation in the order to be passed in the proposed appeal before the Joint Commissioner (Appeals), Bibikulam, Madurai.

11. It is made clear that in case the petitioner fails to pay the aforesaid amount within stipulated period and file an appeal within stipulated period, the

respondents are at liberty to proceed against the petitioner as if the Writ Petition was dismissed *in limine* today.

12. 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

26.08.2025

To
1.Assistant Commissioner of CGST & Central Excise,
Tirunelveli Division,
Central Revenue Building,
Tractor Road,
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2.The Superintendent,
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3.The State Tax Officer,
Thuckalay – 1,
Kattathurai 629 158
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C.SARAVANAN, J.

apd

4. The Joint Commissioner (Appeals),
BiBikulam,
Madurai.

W.P.(MD) Nos.23186 to 23190 of 2025

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