



W.P(MD)No.28763 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28763 of 2025

and

W.M.P.(MD)Nos.22352 & 22353 of 2025

Tvl.Shivaraja Impex Company,
Rep. by its Proprietrix Mrs.S.Poornima,
No.182/1A, Kattaiyan Ayyamperumal Street,
Virudhunagar-626 001.

... Petitioner

Vs.

1.The State Tax Officer-I,
Virudhunagar-1 Assessment Circle,
Commercial Taxes Building,
Madurai Road,
Virudhunagar.

2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Commercial Taxes Department,
Fort St.George, Chennai 600 009.

3.The Union of India,
Secretary to the Government of India,
Ministry of Finance (Mof), Raj Path Marg,
E Block, New Delhi-110011.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorari, to call for the records pertaining



W.P(MD)No.28763 of 2025

to the impugned Notification issued by the 3rd respondent vide his Notification No. 56/2023-Central Tax dated 28-12-2023, corresponding Government order issued by the 2nd respondent in G.O. (Ms) No.1 dated 02-01-2024 and consequential impugned assessment order passed by the 1st respondent vide his order in GSTIN 33AAGPP6016M1ZK /2019-2020 dated 28-08-2024 and quash the same as ultra-vires to section 168A of the Central Goods and Services Tax Act, 2017 apart from being violative of Article 14, 246A and 265 of the Constitution of India, 1950.

For Petitioner : Mr.A.Satheesh Murugan

For Respondents : Mr.R.Sureshkumar
Additional Government Pleader

ORDER

The petitioner is before this Court challenging the impugned assessment order dated 28.08.2024 for the assessment year 2019- 2020. This writ petition has been filed long after the assessment order has been passed.

2.The petitioner had also challenged the notification issued under Section 168A of the Goods and Services Tax Enactments, 2017. It is also noticed that the petitioner has not replied to the notices that preceded the impugned order. Ordinarily this Court could have intervened by putting the petitioner to terms. That is the consistent view followed by this Court.



3.However, It is noticed that a detailed order has recently been passed by the Principal Bench of this Court in a batch of cases in ***M/s.Tata Play Limited vs. Union of India and others***, reported in **2025 (7) TMI 772**, wherein impugned notification issued under Section 168 A of the Act has been quashed with certain directions. The operative portion of the said order reads as under:

“10. Conclusion:

i) The authorities under the CGST Act shall have the benefit of exclusion of the period 15.03.2020 to 28.02.2022, while reckoning limitation under sub section (2) and (10) to Section 73 of CGST Act, in terms of the of the Supreme Court dated 10.01.2022 passed under Article 142 of the Constitution.

ii) Notification Nos.9 and 56 of 2023 stands vitiated and illegal for the following reasons:

a) It results in diminishing / curtailing the limitation which was otherwise available in view of the order of the Hon'ble Supreme Court under Article 142 of Constitution, and thus contrary to the object of Section 168A of CGST Act.

b) It proceeds on an erroneous assumption of the limitation available and a misconception as to the scope and effect of the order of Hon'ble Supreme Court under Article 142 of Constitution. The impugned notification made on an erroneous assumption of the position in law is unsustainable on the ground of being arbitrary.

c) The impugned notification results in extinguishing vested right of action with the authorities under CGST Act by diminishing the limitation thus suffers from the vice of arbitrariness.

d) The impugned notification is issued on the basis of recommendation made without examining relevant materials discussed supra and thus stands vitiated.

e) In addition to the above reasons, impugned notification No. 56/2023 is made even prior to the recommendations of the GST Council, failure to comply with the statutory mandate renders the notification illegal.

f) The impugned notification no.56/2023 is issued on the basis of the recommendations of GIC which cannot be a substitute for GST Council and thus stands vitiated.



W.P(MD)No.28763 of 2025

4.The said order has been followed by this Court in several cases including the order passed in W.P.(MD)No.19943 of 2025 vide order dated 23.07.2025.

5.In view of the above, this writ petition is disposed of by quashing the impugned assessment order and the case is remitted back to the respondents to pass fresh order on merits. However, it is open to the respondents to proceed further in the light of the interim order passed by the Hon'ble Supreme Court under similar circumstances in the case of *HCC-SEW-MEIL-AAG JV Vs. Assistant Commissioner of State Tax (S.L.P.No.4240 of 2025)* against the order of the Telegana High Court. The learned counsel for the petitioner states that the petitioner's bank account has been attached. The attachment effected on the petitioner's bank account is directed to be lifted forthwith and without any delay. No costs. Consequently, the connected miscellaneous petitions are closed.

13.10.2025

Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.28763 of 2025

To

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- 2.The Secretary to Government,
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W.P(MD)No.28763 of 2025

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W.P(MD)No.28763 of 2025

13.10.2025