BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.30712 of 2025
and
W.M.P.(MD)Nos.23847 & 23848 of 2025

Tvl.Sai Sri Saran Agency,
Represented by its Proprietor S.Angayarkkanni,
GSTIN33BQHPA4607H1ZA,
D.No.37A, Irudhayarajapuram First Street,
60 Feet Road, Sellur,
Madurai-625 002. ... Petitioner

Vs.

1.The Deputy State Tax Officer-2,
Chokkikulam Assessment Circle,
C.T.Buildings, Madurai.

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

3.Union of India,
Secretary to the Government of India,
Ministry of Finance (MOF), Raj Path Marg,
E Block, Central Secretariat,
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 on the files of the 3rd respondent in notifications issued in Notification No.09/2023-Central Tax dated 31.03.2023, along with its Notification No.56/2023-Central Tax dated the 28.12.2023 on the files of the Third Respondent herein corresponding 2nd respondents proceedings in G.O. Ms. No.41 dated 05.04.2023 and consequential assessment order passed by the 1 respondent in GSTIN - 33BQHPA4607H1ZA/2019-20 dated 22.08.2024 for the assessment year 2019-20 and quash the same as ultra vires Section 168A of the Central Goods and Services Tax Act, 2017, cannot act retrospectively apart from being violative of Article 14, 246A and 265 of the Constitution of India, 1950.

For Petitioner : Mr.N.Sudalai Muthu

For Respondents : Mr.J.K.Jeyaseelan
Government Advocate
for R1 & R2

: Mr.K.Govindarajan
DSGI for R3

ORDER

The petitioner is before this Court challenging the impugned assessment order dated 22.08.2024 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 proceeded the impugned order. Ordinarily this Court may have intervened by putting the petitioner to terms with 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.

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.

6.However, it is open to the respondents to proceed further in the light of the final order to be 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 petitioner had paid the tax amount. Since the matter has only been remanded, the petitioner's liability will abide by the outcome of the fresh proceedings. No costs. Consequently, the connected miscellaneous petitions are closed.

29.10.2025

Index : Yes / No
Internet : Yes/ No
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To

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2.The State of Tamil Nadu,
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G.R.SWAMINATHAN, J.

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