BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD) No.35388 of 2025
and
W.M.P.(MD) No.28079 of 2025

A.Apma Kaja ... Petitioner

Vs.

The Deputy State Tax Officer-1,
Sengottai Assessment Circle,
Sengottai,
Tenkasi District. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for records pertaining to the impugned order passed by the respondent vide his order in GSTIN 33AUAPA5087H1ZY /2021-22 dated 06.06.2025 and quash the same as it is illegal and in gross violation of principles of natural justice.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

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ORDER

In this Writ Petition, the petitioner challenges the impugned Assessment Order dated 06.06.2025 passed by the respondent for the Assessment Year 2021-2022.

2. The learned counsel for the petitioner submitted that in the present case, a Show Cause Notice in Form GST DRC-01 was initially issued under Section 73(5)/74(5) of the TNGST Act, 2017. He submitted that taking advantage of the fact that the Show Cause Notice mentioned both Sections, the tax was levied under Section 73(5) of the Act and the penalty was imposed under Section 75(5) of the Act.

3. He further submitted that a notice should have been issued either under Section 73 of the Act or under Section 74 of the Act and that it is impermissible to issue a notice under both Sections simultaneously by using a slash. Therefore, even though the issuance of the notice was not in accordance with law, the impugned order has been passed by the respondent by levying tax under Section 73(5) of the Act and imposing penalty under Section 75(5) of the Act. On this ground, the present Writ Petition has been filed.

4. The learned Additional Government Pleader for the respondent fairly submitted that there was an inadvertent error and that both Sections should not have been mentioned in the Show Cause Notice. He however submitted that rightly, the tax was levied under Section 73(5) of the Act and the penalty was imposed under Section 75(5) of the Act.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

6. In the present case, the impugned order has been passed without jurisdiction, as the Show Cause Notice in Form GST DRC-01 itself was issued without authority of law. The respondent issued the Show Cause Notice by invoking both Sections 73 and 74 of the Act. At best, the respondent could have issued the notice either under Section 73 of the Act or under Section 74 of the Act. Issuance of a notice under both Sections simultaneously, by mentioning them together, is impermissible in law.

7. There is no provision under the TNGST Act authorising the officer to issue such a notice. Subsequent thereto, the passing of the impugned order by levying tax under Section 73 of the Act and imposing

penalty under Section 74 of the Act is also impermissible in law.

8. Therefore, it is evident that without authority of law and without proper application of mind, the respondent issued the Show Cause Notice and passed the impugned order. Accordingly, the impugned order is liable to be quashed and is hereby quashed, with liberty to the respondent to issue a fresh notice, if permissible in law and if the same is not barred by limitation.

9. With the above observations, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.12.2025

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Index : Yes / No
Neutral Citation : Yes / No

To

The Deputy State Tax Officer-1,
Sengottai Assessment Circle,
Sengottai,
Tenkasi District.

KRISHNAN RAMASAMY, J.

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W.P.(MD) No.35388 of 2025

10.12.2025