IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-01-2026

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THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 2946 of 2026
and
WMP.Nos.3295 & 3297 of 2026

M/s CHENNAI CERAMICS
Represented by its Proprietor,
M.Kadher Ismail,
No.5, Rathinam Complex, Thiruvin Nagar,
Kovilambakkam, Chennai 600 117

..Petitioner(s)

Vs

1. The Appellate Authority
   GST Appeal Chennai -II,
   Commercial Taxes Main Building, 2nd Floor,
   Greams Road, Chennai-600 006
2. The Assistant Commissioner(ST)
   Madipakkam Assessment Circle
   Room No.233, 11 Floor,
   Integrated Commercial Taxes
   And Registration Department Building,
   Nandanam, Chennai 600 035

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records pertaining to the Impugned order passed by the 1st respondent dated 28.05.2025, in AP/GST/4/2024 confirming the order passed by the 2nd Respondent in vide GSTIN:33CAPPK8378EIZA in order Reference No.ZD3310231042076 dated 17.10.2023 for the Assessment Year 2017-2018 and Quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner(s): M/S. K.M. Malarmannan

For Respondent(s): Mr.TNC.Kaushik
Additional Government Pleader

ORDER

Mr.TNC.Kaushik, learned Additional Government Pleader, takes notice for the Respondents.

2. This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Additional Government Pleader for the Respondents.

3. In this writ petition, the petitioner has challenged the order dated 28.05.2025 passed by the first respondent / Appellate Authority. By the impugned order, the *exparte* assessment order dated 17.10.2023 passed by the second respondent has been partly modified in the appeal filed by the petitioner on 28.12.2023.

4. For the sake of clarity, operative portion of the impugned order passed by the first respondent is reproduced below:-

> *"Wilful non-disclosure". Mere use of expression "Willful" does not make an act or action willful or deliberate. It is a question of fact to be proved by the person who makes an allegation against another for having acted in a willfully negligent manner or deliberately acted with malafide with an intention not to comply with the statutory provisions. This exercise was not done by the Assessing officer". In this case, the appellant had paid the tax due before final assessment. In this case there was no wilfulness and mens-rea on part of the appellant which is necessary to levy penalty.*
> *Hence I am of the firm opinion for all the aforesaid reasons, the order passed by the State Tax officer, Madipakkam Assessment circle, Chennai should have been assessed under Section 73 instead of Section 74. Thus, this portion of appeal is modified.*
> *A summary of the demand raised herein is issued in FORM GST APL-04."*

5. As a consequence of the impugned order, the first respondent / Appellate Authority, has also issued a summary of demand in Form GST APL-4 dated 04.06.2025. In the said summary, apart from interest and penalty imposed at 100% under Section 74 of the respective GST Enactments, the disputed tax has also been demanded from the petitioner.

6. The assessment order itself however records that the petitioner claims to have already paid the disputed tax of Rs.1,71,844/- for the month of September 2018-2019. This aspect ought to have been examined by the first respondent / Appellate Authority before passing the order, but the same has not

been taken into consideration.

7. Considering the above, the case is remitted back to the 1st respondent / Appellate Authority to issue a fresh Form GST APL-04, in the light of the speaking order dated 28.05.2025, as expeditiously as possible, preferably, within a period of 30 days from the date of receipt of a copy of this order.

8. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

29-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

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C.SARAVANAN, J.

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