# IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2026

CORAM:

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P. Nos. 5034, 5039 & 5043 of 2026
and
W.M.P. Nos. 5582, 5584, 5586, 5589, 5595 & 5598 of 2026

Tvl. Evergreen Trailer Service,
Represented by its Managing Partner,
K. Subramanian
3/335/1, Vallipuram Paramathy Road,
Namakkal – 637 003. ...Petitioner in all WPs

Versus

1.The Assistant Commissioner (PA to the Joint Commissioner)
Office of the Joint Commissioner (Intelligence),
Salem Division.

2.Deputy Commissioner (Appeals) (FAC), Salem
Integrated Commercial Taxes Building,
Room No.233, II Floor, No.17,
Pitchards Road, Salem – 7. ...Respondents in all WPs

**Prayer in W.P. No. 5034 of 2026:** Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, to call for the records on the file of the 2$^{nd}$ respondent herein with Appeal No & Year: AP/GST/685/2025 dated 18.12.2025 along with FORM GST APL-04 with Order No.ZD330126022975H dated 06.01.2026 and quash the same.

**Prayer in W.P. No. 5039 of 2026:** Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, to call for the records on the file of the 2nd respondent herein with Appeal No & Year: AP/GST/686/2025 dated 18.12.2025 along with FORM GST APL-04 with Order No.ZD330126022895H dated 06.01.2026 and quash the same.

**Prayer in W.P. No. 5043 of 2026:** Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, to call for the records on the file of the 2nd respondent herein with Appeal No & Year: AP/GST/684/2025 dated 18.12.2025 along with FORM GST APL-04 with Order No.ZD330126022763Q dated 06.01.2026 and quash the same.

For Petitioner : Mr. N. Prasad

For Respondents : Mr. C. Harsha Raj,
Special Government Pleader

## COMMON ORDER

These Writ Petitions are disposed at the time of admission with the consent of the learned counsel for the Petitioner and the learned Special Government Pleader for the Respondents.

2. In these Writ Petitions, the Petitioner has challenged the impugned orders dated 18.12.2025 passed by the second respondent / Appellate Commissioner, in the appeals filed by the Petitioner against the assessment orders passed for the tax periods 2020-2021 to 2022-2023. By the impugned

orders, a part of the demand confirmed by the assessment orders dated 20.06.2024 has been modified.

3. Earlier, by the aforesaid three separate assessment orders for the said tax periods, the first respondent / Assistant Commissioner (P.A. to Joint Commissioner), Office of the Joint Commissioner (Intelligence) had confirmed a demand of Rs.4,33,77,917/- against the Petitioner.

4. Aggrieved by the said assessment orders, the Petitioner filed a statutory appeals before the Appellate Commissioner after depositing 10% of the disputed tax. In the appeal before the second respondent / Appellate Commissioner, partial relief was granted to the Petitioner to the extent of Rs.27,00,707/- by the impugned orders. Thus, the tax liability of the Petitioner, pursuant to the impugned appeal orders comes down to Rs.3,63,39,419/- for the said tax periods.

5. Learned counsel for the Petitioner submits that the Petitioner has been providing services as a Goods Transport Agency (GTA) to TAFE India earlier under the service tax regime governed by the Finance Act, 1994 and that throughout the tax was paid under the reverse charge mechanism. The

said practice was continued even after 01.07.2017 in terms of **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017**.

6. It is further submitted that the recipient, namely, TAFE India, opted not to pay tax under the reverse charge mechanism and therefore, the Petitioner started discharging the tax liability on a forward charge basis in view of the amendment to **Notification No.11/2017-Central Tax (Rate)** dated **28.06.2017** as amended by **Notification No.3/2022-Central Tax (Rate)** dated **30.07.2022**.

7. Learned counsel for the Petitioner further submits that the Petitioner is willing to deposit a further amount over and above the pre-deposit made at the time of filing the appeals before the office of the second respondent against the Assessment Orders dated 20.06.2024.

8. It is further submitted that a sum of Rs.21,22,162/- had already been paid by the Petitioner on 06.12.2023 and after adjusting the said amount, the Petitioner may be permitted to pay a sum of Rs.15,11,779.00/- as a condition for *denovo* adjudication by the first respondent.

9. It is also submitted by the learned counsel for the Petitioner that the assessment orders dated 20.06.2024 were passed in the absence of a reply to the Show Cause Notices that preceded the said assessment orders for the respective tax periods.

10. It is submitted by the learned counsel for the Petitioner that after the personal hearing before the first respondent, the petitioner furnished sample copies of consignment notes to establish that the Petitioner was indeed a GTA and liable to pay tax at 12% on a forward charge basis.

11. It is further submitted that the Petitioner also offered to produce the same before the second respondent, if so required. However, without considering the said documents, the second respondent confirmed the order passed by the first respondent on 20.06.2024.

12. The learned Special Government Pleader for the Respondents submits that the case may be remitted back on terms, considering the fact that the Petitioner has already made a pre-deposit of 10% at the time of filing the appeal before the second respondent. It is further submitted that the Petitioner should be put on terms to deposit another 10% on the disputed

tax for the said tax periods, as would have been required under Section 112 of the respective GST Enactments.

13. Having considered the submissions made by the learned counsel for the Petitioner and the learned Special Government Pleader for the Respondents and recording the consent, I am of the view that these cases can be remitted back to the first respondent to redo the exercise, as the assessment orders dated 20.06.2024 for the respective tax periods were passed without a proper reply from the Petitioner to the show cause notice(s) and that before the second respondent / Appellate Commissioner, the Petitioner had filed only sample copies of the consignment notes.

14. To claim the benefit of an exemption under a rate notification relating to rate of tax for determination of correct classification of the services supplied, it is incumbent on part of the assessee to establish the same with proper records. Therefore, while passing de novo order, the 1st Respondent shall keep in mind the well recognised principle of law that assessment cannot be made by sampling. At the same time, there is no impediment for the 1st Respondent as the assessing officer to invoke the doctrine of preponderance of probability while passing the de novo order.

15. Therefore, to balance the interest of the Petitioner as well as the Respondents, the case is remitted back to the first respondent to redo the exercise and pass fresh assessment orders on merits, by treating the assessment orders as an addendum to notice that preceded the impugned orders, subject to the Petitioner depositing a sum of Rs.30,00,000/- (Rupees Thirty Lakhs) in cash within a period six weeks from the date of receipt of a copy of this order.

16. Within such time, the petitioner shall file a proper reply to the show cause Notices that preceded the assessment orders and supplement the reply with necessary evidence in the form of consignment notes for the transactions.

17. In case the Petitioner complies with above stipulation, the first respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. Needless to state, the Petitioner shall be heard.

18. The Writ Petitions stand disposed of with the above observations. Consequently, connected miscellaneous petitions are closed. No costs.

**12.02.2026**

Index : Yes/No
Neutral Citation :Yes/No
AT

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Joint Commissioner)
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**C.SARAVANAN, J.**

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