IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-02-2026

CORAM

THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P. No.6325 of 2025
and
W.M.P. Nos.6963 and 42751 of 2025

Muthusamy Sivabalan,
Proprietor of M/s.SCM Trading Company,
914/9, Semmankalipalayam, Pothipalayam,
Kangeyam, Tamil Nadu-638 701.

..Petitioner(s)

Vs

The Assistant Commissioner (ST),
Kangeyam Assessment Circle, Kangeyam.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records on the file of the Respondent leading to the issuance of impugned order issued by the respondent dated 28.04.2023 vide GSTIN:33FHVPS6726Q1Z2/ 2019-20 and quash the same and consequently direct the Respondents to re-adjudicate the Show Cause Notice after giving an opportunity of personal hearing and shall pass a fresh speaking order in accordance with law.

For Petitioner(s): Mr.A.G.Sathyanarayana

For Respondent(s): Ms.P.Selvi
Government Advocate

ORDER

The petitioner is before this Court against the impugned order dated 28.04.2023 in Form GST DRC-07, passed for the tax period 2019-2020 under Section 74 of the respective GST Enactments. By the impugned order, the proposal in Show Cause Notice in DRC-01 dated 10.06.2022 for the tax period 2019-2020 has been confirmed against the petitioner in the absence of a supply from the petitioner to the same.

2. The allegation in the Show Cause Notice is that the petitioner had received consignment from one Tvl.Mayil and Co. (GSTIN: 33AJBPM2783J1Z5) who is a bogus dealer involved in passing of fraudulent Input Tax Credit (without goods movement) and therefore, the petitioner was not entitled to avail Input Tax Credit claimed by the petitioner for the said tax period.

3. The petitioner appears to have been issued with an intimation in DRC-01A dated 01.04.2022, to which the petitioner replied on 21.12.2020. Facts on record reveal that the petitioner's GST registration itself was cancelled on 05.03.2019.

4. If indeed there was a supply of the goods during the period in dispute after the cancellation of GST registration of the petitioner, the department's

contention should have been to recover tax evaded by the petitioner under GSTR-1, GSTR-3B and GSTR-9 and if the petitioner has suppressed the turnover taking advantage of cancellation of the GST registration.

5. Once the GST registration of the petitioner has been cancelled on 05.03.2019, with effect from the same date the question of the petitioner availing Input Tax Credit on the strength of the fake invoice by said Tvl.Mayil and Co. for the period between 2019 and 2020 appears to be inconceivable as the period would start from 01.04.2019 to 31.03.2020.

6. Considering the same, the case is remitted back to the respondent to pass fresh orders on merits after ascertaining from the counter part/the respondent within whose jurisdiction the said Tvl.Mayil and Co. was carrying on business, supplying goods whether indeed the said Company has been raising fake invoices as expeditiously as possible, preferably within a period of 6 months from the date of receipt of a copy of this order.

7. The petitioner shall file a reply along with requisite documents to the Show Cause Notice in DRC-01 dated 10.06.2022 that preceded the impugned order, within a period of 1 month from the date of receipt of a copy of this order.

8. Since there has been a substantial recovery of the tax amount, the attachment of the property of the petitioner shall stand lifted.

9. The writ petition stands disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

12-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MKA

To:

The Assistant Commissioner (ST),

Kangeyam Assessment Circle,

Kangeyam.

C. SARAVANAN J.

MKA

W.P. No.6325 of 2025

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