IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-06-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP Nos. 21312 & 21616 of 2026
&
WMP Nos.23059, 23060, 23065 & 23066 of 2026

M/s.Nivedhaa Engineering
Rep. by its Managing Partner, G.Gurumoorthi,
No.3/638, North Street,
Kodiyalathur,Thirukkuvalai, Nagapattinam
District.

..Petitioner(s)

Vs

1. The State Tax Officer (Roving Squad - III)
Office of the Joint Commissioner (State Tax)
Intelligence, Thiruvarur Division, No.3/216,
Pavithra Manickam Main Road, Thiruvarur
District.

2. The Secretary to Government
Commercial Taxes and Registration
Department,Fort St. George, Chennai 600 009.

3. The Additional Chief Secretary to Government
Finance Department, Fort St.George, Chennai -
600 009.

4. The District Collector/Chairman
District Rural Development Agency,
Nagapattinam, Nagapattinam District.

5. The District Collector/Chairman
District Rural Development
Agency,Tiruvarur,Tiruvarur District.

..Respondents in WP
No.21312/2026

1.The State Tax Officer (Roving Squad - III)
Office of the Joint Commissioner (State Tax) Intelligence,
Thiruvarur Division, No.3/216,
Pavithra Manickam Main Road, Thiruvarur District.

2. The Secretary to Government
Commercial Taxes and Registration Department,
Fort St. George, Chennai 600 009.

3. The Additional Chief Secretary to Government
Finance Department, Fort St.George,
Chennai - 600 009.

4.The District Collector/Chairman
District Rural Development Agency,
Tiruvarur, Tiruvarur District. ..Respondents in WP No.21316/2026

PRAYER in 21312 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified Mandamus to call for the records of the 1st respondent in GSTIN 33AAFFN7121G2ZK/2023-24 dated 09.03.2026 in respect of defect no.2 and quash the same as illegal in so far as defect in respect to payment of revised tax at the rate of 18 percentage is concerned and consequentially direct the 4th and 5th respondents to pay the differential GST at the rate of 6 percentage on the bills of the petitioner with effect from 18.07.2022 to the petitioner.

PRAYER in 21316 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorari to call for the records of the 1st respondent in GSTIN 33AAFFN7121G2ZK/2024-25 dated 09.03.2026 in respect of defect no.2 and quash the same as illegal in so far as defect and quash the same as illegal in respect of defect No.2 in so far as the demand of penalty in payment of different tax of 18% instead of 12%.

In both WPs

For Petitioner(s): Mr.R.Suresh Kumar for Mr.S.P.Harikrishnan

For Respondent(s): Mr.R.Sethu Prabakaran, Government Counsel (TAx)

COMMON ORDER

In W.P.No.21312 of 2026, an order dated 09.03.2026 is assailed only insofar as defect No.2 is concerned.

2. Learned counsel for the petitioner submits that the short payment was a consequence of the increase in tax rate from 12% to 18%. He also submits that the works contract was executed for the fourth and fifth respondents herein, who are Governmental agencies. Relying on earlier order dated 24.02.2026 in W.P.Nos.7024 & 7032 of 2026, learned counsel submits that recovery proceedings were kept in abeyance under substantially similar circumstances and the Government agencies were directed to reimburse the amounts payable.

3. In W.P.No.21316 of 2026, learned counsel submits that the tax dues in respect of short payment of tax were discharged and that the challenge is limited to the imposition of penalty under the impugned order.

4. Mr.R.Sethu Prabakaran, learned Government Counsel, appears not only for the GST Authorities, but also for the Government agencies, which were the recipients of services provided by the petitioner under the works contract.

5. The tax demand relating to short payment of tax has arisen entirely on account of the change in the rate of tax after the relevant works contract was signed. The rate of tax was enhanced pursuant to notification No.3/2022-Central Tax dated 13.07.2022 and the corresponding notification issued by the State authority. As a Government agency, the fourth and fifth respondents herein are liable to reimburse the petitioner towards the differential tax liability. In case the liability is discharged belatedly, any interest levied on the petitioner should also be reimbursed. Such reimbursement shall be made within a maximum period of three months from the date of receipt of a copy of this order along with interest due and payable up to such date.

6. Penalty has been imposed under both the orders impugned herein under Section 74 of the applicable GST statutes. Section 74 is applicable in cases of fraud, wilful misstatement or suppression of facts with intention to evade taxes. Given the fact that the short payment was a consequence of change in rate and the failure of the recipient of service to pay the differential tax, the ingredients of Section 74 are not made out. Therefore, the tax officer shall reconsider the

matter by treating the proceedings as proceedings under Section 73 of the applicable GST enactments upon remand as far as defect No.2 is concerned.

7. For reasons aforesaid, the order impugned in W.P.No.21312 of 2026 is set aside partly only insofar as defect No.2 is concerned and the order dated 09.03.2026 in W.P.No.21316 of 2026 is set aside. After providing a reasonable opportunity to the petitioner, a fresh order shall be issued under Section 73 of the applicable GST enactments within four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

22-06-2026

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

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To
1.The State Tax Officer (Roving Squad - III)
Office of the Joint Commissioner (State Tax) Intelligence, Thiruvarur Division, No.3/216, Pavithra Manickam Main Road, Thiruvarur District.

2. The Secretary to Government
Commercial Taxes and Registration Department,Fort St. George, Chennai 600 009.

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SENTHILKUMAR RAMAMOORTHY, J.

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