IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19259 of 2023
and
W.M.P.Nos.18503 & 18504 of 2023

M/s.Ramasamy Gounder Prakasam
Represented by its Proprietor
Mr.R.Prakasam
Old.No.1/82, New No.1/202
Masakalipatty, Rasipuram
Namakkal 637 401. ... Petitioner

Vs.

The Joint Commissioner
Officer of the Commissioner of Goods and
Service Tax and Central Excise
GST Bhawan No.1, Foulkes Compound
Anaimedu
Salem 636 001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records in relation to the Order-in-Original SI No.03/2023 GST (JC) dated 28.03.2023 vide DIN:20230359XP000000A1A7 on the file of the respondent and quash the same as it is in gross violation of principles of natural justice, judicial discipline, is arbitrary, perverse and violative of Articles 14 and 19(1)(g) of the Constitution and to pass such further or other order(s) as this Court may deem it and proper in the facts and circumstances of the case.

For Petitioner : M/s.M.N.Bharathi

For Respondent : M/s.Sai Srujan Tayi
Senior Panel Counsel

ORDER

Heard learned counsel for the petitioner and the learned Senior Panel Counsel for the respondent.

2. In this Writ Petition, the petitioner has challenged the impugned order in Original Sl.No.03/2023-GST (JC) dated 28.03.2023 passed by the respondent. By the impugned order, the proposal in Show Cause Cum Demand Notice No.109/2022-GST dated 30.09.2022 has been confirmed against the petitioner to which the petitioner filed a reply on 05.11.2022 and 30.01.2023.

3. Operative portion of the impugned order dated 28.03.2023 is reproduced below:

Order

(a) In respect of Central Goods and Service Tax:

(i) I confirm the demand of Rs.1,18,44,675/- (Rupees One Crore Eighteen Lakhs Forty Four Thousand Six Hundred and Seventy Five only) towards the short/not-paid CGST for the period from July 2017 to March 2021 and to recover the same from M/s. Ramasamy Gounder Prakasam (R.Prakasam), Old No. 1/82, New No. 1/202, Masakalipatty, Rasipuram, Namakkal, Tamil Nadu, 637401 under the provisions of Section 74(9) of the CGST Act, 2017;

(ii) I appropriate an amount of CGST of Rs. 17,50,000/- paid by the tax payer as mentioned in Para 17.4. above, towards the part of the tax liability as mentioned in Sl.No.(a)(i) above payable during the period from July 2017 to March 2021 under the provisions of CGST Act, 2017;

(iii) I confirm the demand of interest at the applicable rates on the amount of tax payable as in sl.no.(a)(i) above and to recover the same from M/s. Ramasamy Gounder Prakasam (R.Prakasam), Old No.1/82, New No. 1/202. Masakalipatty, Rasipuram, Namakkal, Tamil Nadu, 637401 under the provisions of Section 74(9) of CGST Act. 2017 read with Section 50 of CGST Act, 2017;

(iv) I impose a penalty of Rs.1,18,44,675/- (Rupees One crore Eighteen Lakhs Forty Four Thousand Six Hundred and Seventy Five only) equivalent to the amount confirmed at sl.no.(a)(i) above under the provisions of Section 74(9) of CGST Act, 2017 read with Section 122(2)(b) of CGST Act, 2017 for suppression of taxable turnover leading to evasion of tax and to recover the same from M/s. Ramasamy Gounder Prakasam (R.Prakasam), Old No.1/82, New No.1/202, Masakalipatty, Rasipuram, Namakkal, Tamil Nadu, 637401;

(v) Since, I have already imposed penalty under Section 122(2)(b) of the CGST Act, 2017/ TNGST Act, 2017, therefore, I refrain from imposing any penalty under Section 122(2)(a) of CGST Act, 2017 / TNGST Act, 2017;

(b) In respect of Tamil Nadu Goods and Service Tax:-

(i) I confirm the demand of Rs.1,18,44,675/- (Rupees One Crore Eighteen Lakhs Forty Four Thousand Six Hundred and Seventy Five only) towards the short/not-paid SGST for the period from July 2017 to March 2021 and to recover the same from M/s. Ramasamy Gounder Prakasam (R.Prakasam), Old No.1/82, New No. 1/202, Masakalipatty, Rasipuram, Namakkal, Tamil Nadu, 637401 under the provisions of Section 74(9) of the TNGST Act, 2017;

(ii) I appropriate an amount of SGST of Rs. 17,50,000/- paid by the tax payer as mentioned in Para 17.4. above, towards the part of the tax liability as mentioned in Sl.No.(b)(i) above payable during the period from July 2017 to March 2021;

(iii) I confirm the demand of interest at the applicable rates on the amount of tax payable as in sl.no.(b)(i), above and to recover the same from M/s. Ramasamy Gounder Prakasam (R. Prakasam), Old No.1/82, New No. 1/202, Masakalipatty, Rasipuram, Namakkal, Tamil Nadu, 637401 under the provisions of Section 74(9) of TNGST Act, 2017 read with Sections 50 of TNGST Act, 2017;

(iv) I impose a penalty of Rs.1,18,44,675/- (One crore Eighteen Lakhs Forty Four Thousand Six Hundred and Seventy Five only) equivalent to the amount confirmed at sl.no. (b)(i) above under the provisions of Section 74(9) of TNGST Act, 2017 read with Section 122(2)(b) of TNGST Act, 2017 for suppression of taxable turnover leading to evasion of tax and to recover the same from M/s. Ramasamy Gounder Prakasam (R.Prakasam), Old No.1/82, New No.1/202, Masakalipatty, Rasipuram, Namakkal, Tamil Nadu, 637401;

> (v) Since, I have already imposed penalty under Section 122 (2) (b) of the TNGST Act, 2017, therefore, I refrain from imposing any penalty under Section 122 (2) (a) of TNGST Act, 2017."

4. The challenge to the impugned order is primarily on the ground that the petitioner has been mulct with tax liability for the tax period 2017-2018, 2018-2019 and 2019-2020 for the works contract executed for various state Government departments prior to the implementation of GST Enactments with effect from 01.07.2017.

5. It is submitted by the learned counsel for the petitioner that only the payments for such work contract were received by the petitioner after the GST regime came into force with effect from 01.07.2017 which has been ignored by the respondent while passing the impugned order.

6. It is further submitted that the petitioner has paid a sum of Rs.81,57,966/- towards the tax whereas in the impugned order, while confirming the demand, same has not been considered properly. Instead, it is submitted that the impugned order confined to only a sum of Rs.35 lakhs which again has been ignored while giving a finding on Issue No.3.

7. That apart, it is submitted that the petitioner is assessed under the State Authority and that the State Authority has passed an order for the tax period 2020-2021 which covers part of the demand covered by the impugned order.

8. It is further submitted that the State Authority has recently passed an assessment order on 17.02.2025, whereby the demand proposed for the aforesaid tax period has been dropped on the identical amount proposed in the aforesaid Show Cause Cum Demand Notice No.109/2022-GST dated 30.09.2022.

9. The learned Senior Panel Counsel for the respondent submits that the present Writ Petition is devoid of any merits and therefore, liable to be dismissed with cost. It is submitted that the subsequent order passed by the State Authority for the tax period 2020 on 17.02.2025 pursuant to a Show Cause Notice in GST DRC-01 dated 23.11.2024 is itself non-est in the eye of law in view of the recent decision of the Hon'ble Supreme Court in ***M/s.Armour Security (India) Ltd., Vs. Commissioner,CGST, Delhi East Commissionerate & Anr. in Special Leave Petition (C) No.6092 of 2025*** and therefore submits that the present Writ Petition be dismissed.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Panel Counsel for the respondent.

11. If it is the case of the petitioner that tax was demanded for the services rendered prior to 01.07.2017 for which the petitioner was liable to pay Service Tax and VAT under the provision of Value Added Tax Act, 1994 and Tamil Nadu Value Added Tax Act, 2006 and were exempted partly in terms of **Notification No.25/2012-ST** dated **20.06.2012** as amended from time to time, the petitioner shall particularize each of the transactions in the reply and substantiate the same with annexure. Mere filing of the annexure is not sufficient.

12. Having considered the submissions made by the learned counsel for the petitioner and the learned Senior Panel Counsel for the respondent and perusing the records before this Court and the replies dated 30.01.2023 and order dated 17.02.2025 passed by the State Authority for the tax period 2020-2021, the impugned order is liable to be set aside.

13. It is accordingly set aside and the case is remitted back to the respondent to pass a fresh order on merits, taking note of the order passed by the State Authority dated 17.02.2025 for the tax period 2020-2021.

14. Since it has been decided to remit the case back, there shall be a direction to the petitioner to file a proper reply to the Show Cause Cum Demand Notice No. 109/2022-GST dated 30.09.2022 by treating the impugned Order-in-Original No.Sl.No.03/2023-GST (JC) dated 28.03.2023 as an addendum to the said Show Cause Notice within a period of (30) thirty days from the date of receipt of a copy of this order.

15. The respondent shall thereafter proceed to pass a final order on merits as expeditiously as possible, within a period of three months from the date of receipt of copy of this order.

16. Needless to state, the petitioner shall be heard before the final order passed on merits.

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

05.02.2026

Index : Yes/No
Neutral Citation : Yes/No
dna

To:

The Joint Commissioner
Officer of the Commissioner of Goods and Service Tax and Central Excise
GST Bhawan No.1, Foulkes Compound
Anaimedu
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C.SARAVANAN, J.

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