BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2026

CORAM

**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

**W.P.(MD)No.311 of 2026**
**& W.M.P.(MD)Nos.306 & 307 of 2026**

Abdul Kader M
S/o Mohamed Hanifa
GSTIN 33BREPM1149N1ZN
No. W.15/25, Theradi Street
Uthamapalayam, Theni - 625 533.

... Petitioner

**Vs.**

1. The State Tax Officer
Uthamapalayam Assessment Circle
Commercial Taxes Buildings, Uthamapalayam.

2. The State of Tamil Nadu Represented by its Secretary
Commercial Taxes Department, Fort St. George
Chennai 600 009.

3. Union of India Secretary to the Government of india
Ministry of Finance MOF
Raj Path Marg, E Block, Central Secretariat
New Delhi 110011.

... Respondents

**Prayer:**

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the 3rd respondent in notifications issued in Notification No.09/2023-

Central Tax dated 31.03.2023, along with its Notification No.56/2023-Central Tax dated the 28.12.2023 on the files of the Third Respondent herein corresponding 2nd respondents proceedings in G.O. Ms. No.41 dated 05.04.2023 and consequential assessment order passed by the 1st respondent in GSTIN 33BREPM1149N1ZN /2019-20 dated 30.07.2024 vide Reference No. ZD330724341969W dated 30.07.2024 for the assessment year 2019-20 and quash the same as ultra vires Section 168A of the Central Goods and Services Tax Act, 2017, Cannot act retrospectively, apart from being violative of Article 14, 246A and 265 of the Constitution of India, 1950.

For Petitioner : Mr.Sudalai Muthu N

For Respondent : Mr.R.Suresh Kumar, AGP for R1 & R2
Mr.K.Govindarajan, for R3

**ORDER**

This Writ petition has been filed challenging the validity of Notification Nos. 09/2023 & 56/2023 issued by the GST Council and the consequential assessment order dated 30.07.2024 passed by the 1st respondent.

2. Mr.R.Suresh Kumar, learned Additional Government Pleader, takes notice on behalf of the respondents 1 & 2 and Mr.K.Govindarajan, learned counsel, takes notice on behalf of the 3rd respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the stage of admission itself.

4. When this Writ Petition is taken up for hearing, the respective learned counsel for the petitioner and learned counsel for the respondent, would submit that the issue, with regard to the issuance of impugned Notification Nos.09/2023 dated 31.03.2023 and 56/2023 dated 28.11.2023, has already been decided vide the common order of this Court, dated 12.06.2025 passed in W.P.Nos.17184 of 2024, etc., batch, wherein, this Court has categorically held in paragraphs 10 to 12 as under:

> *"10.Conclusion:*
>
> *i) The authorities under the CGST Act shall have the benefit of exclusion of the period 15.03.2020 to 28.02.2022, while reckoning limitation under sub section (2) and (10) to Section 73 of CGST Act, in*

*terms of the of the Supreme Court dated 10.01.2022 passed under Article 142 of the Constitution.*

*ii) Notification Nos.9 and 56 of 2023 stands vitiated and illegal for the following reasons:*

> *a) It results in diminishing / curtailing the limitation which was otherwise available in view of the order of the Hon'ble Supreme Court under Article 142 of Constitution, and thus contrary to the object of Section 168A of CGST Act.*
>
> *b) It proceeds on an erroneous assumption of the limitation available and a misconception as to the scope and effect of the order of Hon'ble Supreme Court under Article 142 of Constitution. The impugned notification made on an erroneous assumption of the position in law is unsustainable on the ground of being arbitrary.*
>
> *c) The impugned notification results in extinguishing vested right of action with the authorities under CGST Act by diminishing the limitation thus suffers from the vice of arbitrariness.*
>
> *d) The impugned notification is issued on the basis of recommendation made without examining relevant materials discussed supra and thus stands vitiated.*
>
> *e) In addition to the above reasons, impugned notification No.56/2023 is made even prior to the recommendations of the GST Council, failure to comply with the statutory mandate renders the notification illegal.*

> *f) The impugned notification no. 56/2023 is issued on the basis of the recommendations of GIC which cannot be a substitute for GST Council and thus stands vitiated.*

*11. There are issues relating to violation of principles of natural justice, lack of jurisdiction, errors apparent on the face of record etc. These are questions which will have to be re examined by the assessing authority inasmuch as the thrust of the petitioner's submissions before this Court as well as before the authorities has been primarily on the jurisdiction in view of the challenge to the validity of the notification.*

*12. In light of the present order, this Court is inclined to remand all the matters back to the assessing authority for passing orders afresh:*

> *i. In case challenge is to the order of assessment/adjudication, petitioners shall treat the impugned orders as show cause notice and submit their objections within a period of 8 weeks from the date of uploading of the Web Copy of this order and the authorities shall proceed to pass orders afresh after affording the petitioners an opportunity of hearing.*
>
> *ii. In case the challenge is to the notice it is open to the petitioner to submit*

*their objections within a period of 8 weeks from the date of uploading of the Web Copy of this order and the authorities shall proceed to pass orders afresh after affording the petitioners an opportunity of hearing.*

*13. Accordingly, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed. "*

5. Therefore, considering the submissions made by the learned counsel for the petitioner and by following the aforesaid order dated 12.06.2025 passed by this Court in W.P.Nos.17184 of 2024, etc., batch, this Court holds that the impugned Notification Nos. 09/2023 & 56/2023 stands vitiated and illegal. However, upon considering the extension of time limit by the Hon'ble Apex Court vide the order passed in Suo Moto (C) No.3 of 2020, this Court is of the view that in the present case, the initiation of proceedings by the respondent, by applying Section 168A, is valid.

6. At this juncture, it was submitted by the petitioner that the impugned order dated 30.07.2024 was passed in the name of petitioner's

father, who met his maker subsequent to the passing of the said order. Now, the petitioner, being the legal heir of the deceased, is willing to file the reply to substantiate his case before the respondent. Hence, this writ petition.

7. Further, he would contend that at the time of passing the assessment order, the petitioner was not in a position to file any reply. Under these circumstances, the impugned order came to be passed without providing the opportunity of personal hearing, which is a clear violation of principles of natural justice. Thus, he requests this Court to set aside the said impugned order and grant one more opportunity to the petitioner to present his case before the respondent.

8. The learned Additional Government Pleader appearing for the respondents had also confirmed the submissions made by the petitioner and hence, requests this Court to pass appropriate orders.

9. Upon considering the submissions made by the petitioner, it is clear that though the proceedings initiated by the respondent is valid

as stated above, the impugned assessment order came to be passed in violation of principles of natural justice. In such view of the matter, this Court feels that it would be appropriate to provide an opportunity to the petitioner to establish his case before the respondent. Accordingly, this Court pass the following orders:

i) The impugned Notification Nos.09/2023 dated 31.03.2023 and 56/2023 dated 28.12.2023 stand vitiated and illegal.

ii) The impugned order dated 30.07.2024 is hereby set aside and the matter is remanded back to the 1st respondent for fresh consideration.

iii) The petitioner, in his capacity as a legal heir of the deceased, shall file their reply/objection along with the required documents, if any, for the show cause notice dated 19.05.2024, within a period of four weeks from the date of receipt of copy of this order.

(iv) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

10. With the above directions, the present Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

**08.01.2026**

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

To

1. The State Tax Officer
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Uthamapalayam Assessment Circle
Commercial Taxes Buildings, Uthamapalayam.

2. The State of Tamil Nadu Represented by its Secretary
Commercial Taxes Department, Fort St. George
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**KRISHNAN RAMASAMY.J.,**

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