BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2026

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.1938 of 2026
& W.M.P(MD)Nos.1533 & 1537 of 2026

Dhanalakshmi Srinivasan Charitable and Educational Trust
Represented by its Trustee and Vice Chairman
Kathiravan Srinivasan
274C, Siruvachur, Thuraiyur Road
Perambalur - 621 212.

... Petitioner

Vs.

1. The Commercial Tax Officer
State Tax Officer – V (Roving Squad)
O/o. The Joint Commissioner (ST) (Intelligence)
Trichy Division, C/107, B3-II Floor
North East Extension, Sastri Road
Thillai Nagar, Trichy - 620 018.

2. The Commercial Tax Officer
State Tax Officer – V (Inspection)
O/o. The Joint Commissioner (ST) (Intelligence)
Trichy Division, First Floor
No.107 B2, Thillai Nagar
North East Extension, Trichy - 620 018.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in GSTIN 33AAATD4216B1ZJ/2024-25 dated 14.11.2025 u/s.74A(1) r.w.s.74A(5)(i)i of the TNGST Act 2017 with a Summary of order in Reference No. ZD3311252558965 dated 14.11.2025 on the file of the 2nd Respondent for the period April, 2024 to August, 2024 and quash the same

For Petitioner : Mr.P.M.Kathir, for Mr.G.Baskar

For Respondent : Mr.R.Suresh Kumar, AGP

ORDER

This writ petition has been filed challenging the impugned order dated 14.11.2025 passed by the 2^{nd} respondent.

2. Mr.R.Suresh Kumar, learned Additional Government Pleader, takes notice on behalf of the respondents.

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

4. The learned counsel for the petitioner would submit that in this case, the show cause notice was issued in pre-mature manner. By referring Section 74A(2) of the GST Act, he would submit that the respondent is supposed to have issued the show cause notice only after the expiry of due date for filing the annual returns for the relevant assessment year and prior to the 42 months from the said due date. The present case is pertaining to the assessment year 2024-2025, for which, the due date for filing the annual return is on or before 31.12.2025. In such case, the jurisdiction arises, for issuance of show cause notice for AY 2024-25, only from 01.01.2026 onwards. However, without considering the same, the respondent had issued the show cause notice on 01.09.2025 in a pre-mature manner. Hence, this writ petition.

5. In reply, the learned Additional Government Pleader appearing for the respondent would submit that in this case, the notice was issued based on the tax period, which includes both monthly return and annual return.

6. Further, he would contend that only for the purpose of issuing show cause notice, pertaining to annual returns, the said limitation period would apply, however, there is no prohibition for issuance of show cause notice based on the monthly returns, if there is any default, commission or omission therein. Hence, he would submit that there is no fault on the part of the respondent in issuance of show cause notice and prays for dismissal of this petition.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and also perused the entire materials available on record.

8. The issue involved in this case is as to whether the show cause notice under Section 74A, pertaining to a particular assessment year, can be issued prior to the due date for filing annual returns for the relevant assessment year ?

9. The main contention of the petitioner was that the respondents are supposed to have issued notice in accordance with the provisions of

Section 74A(2) of the GST Act. As per the said provision, the jurisdiction to issue show cause notice will not come into picture until the expiry of due date for filing of annual returns for the respective assessment year. In such case, according to the petitioner, since the issue is pertaining to the AY 2024-25, the respondents are supposed to have issued show cause notice only after the said due date, i.e., after 31.12.2025. However, in this case, the show cause notice was issued in a pre-mature manner on 01.09.2025.

10. At this juncture, it would be apposite to extract the meaning of the word "tax period" in terms of Section 2(106) of the GST Act, which reads as follows:

> *"2(106) "tax period" means the period for which the return is required to be furnished"*

11. A reading of the above Section would show that "tax period" means the period, for which, the return is required to be furnished. Therefore, based on the filing of returns, the tax period will be determined. In GST Law, an Assessee is required to file monthly return

as well as annual return. Therefore, based on the monthly return, the notice, under Section 74A, can also be issued for any particular month, in the event of any violation of the provisions of the Act, Rules, etc.

12. Now, it would also be apposite to extract the definition of the word "return" in terms of Section 2(97) of the GST Act, which reads as follows:

> *2(97) "return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;*

13. A reading of the above would show that the "return" means any return prescribed or otherwise required to be furnished by the Act or the Rules made thereunder. As stated above, in terms of the provisions of the GST Act, an Assessee is required to file both monthly returns as well as annual return. Thus, the issuance of show cause notice will be based on the filing of return and tax period.

14. The non-compliance of the provisions of GST law would occur either in filing the monthly returns or in filing the annual return.

Thus, in the event of non-compliance of provisions of GST Law, the jurisdiction of Authorities, to initiate appropriate proceedings against the Assessee, would arise immediately in terms of Section 74A(1) of the GST Act. As stated above, the word "tax period" defined in the GST Act would refer the period based on the filing of both monthly returns and annual return. If there is any default or violation occurred in payment of tax, filing of returns, etc., for any tax periods, either based on monthly return or annual return, certainly, the proper officer will have jurisdiction for initiation of proceedings against the Assessee based on the filing of return for the relevant tax period. Thus, there is no bar in the GST Law for the proper officer to initiate appropriate proceedings against the Assessee based on the filing of monthly returns.

15. Now, it would be apposite to extract the provisions of Section 74A(1) to 74A(4), which read as follows:

> ***74A.- Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onward***

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit. requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

PROVIDED that no notice shall be issued, if the tax which has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised in a financial year is less than one thousand rupees.

(2) The proper officer shall issue the notice under sub-section (1) within forty-two months from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within forty-two months from the date of erroneous refund.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short

paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice."

16. A reading of the above makes it clear that the obligation on the part of the Assessee to pay tax for each and every month would arise based on the monthly returns. If the said tax is not paid or short paid or erroneously refunded, the Officer concerned will not sit and wait till the expiry of due date for filing the annual returns. Obviously, they will have jurisdiction to initiate proceedings by invoking the provisions of Section 74A(1) of the GST Act immediately upon the default occurred. Therefore, in the present case, the question of initiation of proceedings, in pre-mature manner, would not at all arise. The impugned proceedings was initiated duly in accordance with the provisions of Section 74A(1)

of the Act and the period mentioned in Section 74A(2) is only for the purpose of determining the limitation period of 48 months. It does not mean that the proceedings can be initiated only after filing the annual return for the relevant assessment year. In terms of Section 74A(1), the cause of action for initiation of proceedings would arise, once, the proper officer come to his/her knowledge with regard to the default, on the part of remittance of tax and filing of monthly returns, etc., by the Assessee. Hence, it is clear that when the tax amount, pertaining to few months, in an assessment year, which was not paid or short paid or erroneously refunded, the jurisdiction for issuance of show cause notice would automatically arise in terms of Section 74A(1) of the GST Act.

17. Section 74A(1) of the GST Act empowers the proper officer to initiate proceedings, once if there is any default in payment of tax, such as short paid, not paid or erroneously refunded or if ITC is wrongly availed or utilised. In all the above said situations, the proper officer shall serve notice on the person chargeable with tax, which means, there is an obligation for the Assessee to remit the tax amount not only based on financial year but also based on returns filed for each and every

month. In the event of any default in the remittance of tax relating to any tax period of the relevant month, certainly, the non-compliance of provisions of GST Law would arise. Once, if such default comes to the knowledge of the proper officer, certainly he is empowered to initiate proceedings by issuing a show cause notice, as per Section 74A(1) of the GST Act.

18. As far as the limitation period of 48 months mentioned in Section 74A(2) of the GST Act is concerned, the said period of 48 months has to be calculated from the due date for furnishing annual returns. Hence, the said provision is only for the purpose of explaining as to how the maximum period of 48 months limitation would be calculated. The last date for filing the annual return would be the cut-off date for commencement of limitation and based on the said date, the limitation period of 48 months required to be calculated, even the cause of action for initiation of proceeding, under Section 74A(1) of the Act, would occur prior to the cut-off date as referred above. In such case, there is no bar for the proper officer to initiate the proceedings under Section 74A(1) immediately on the occurrence of cause of action, even if

it is prior to the cut-off date. Therefore, Section 74A(2) of the GST Act only prescribes the maximum period of limitation up to which, the proceedings can be initiated. Thus, if any violation is noticed, even prior to the cut-off date, the proper officer will assume jurisdiction to initiate proceedings forthwith. However, at any cost, the said proceedings required to be initiated within the maximum time limit of 48 months as mentioned in Section 74A(2) of the GST Act. Thus, the question of initiation of proceedings in pre-mature manner would not at all arise.

19. In the present case, the proceedings initiated by the respondent is pertaining to April 2024 to August 2024. Since the proper officer noticed the violation in the above monthly returns, under Section 74A(1), the proceedings were initiated. Thus, there is no bar for the respondent to initiate the proceedings, for non-compliance of the provisions of GST Law, in terms of Section 74A(1). Once the commission of offence comes to the knowledge of the proper officer, the jurisdiction for initiation of proceedings would arise immediately. Accordingly, in the present case, the respondent had initiated the proceedings based on the monthly returns. As stated above, the

provisions of Section 74A(2) dealt with the aspect of determination of time limit of 48 months upto which the proceedings, under Section 74A(1), can be initiated for the relevant assessment year. Thus, the proceedings, based on monthly return, can be initiated even before the filing the annual return for the relevant assessment year, once the violation of the provisions of GST Law is noticed by the Proper Officer.

20. In view of the above, this Court does not find any fault in the invocation of Section 74A and issuance of notice to the petitioner is not at all pre-mature in nature. Therefore, this Court is inclined to dismiss the present petition.

21. Accordingly, this writ petition is dismissed. No cost. Consequently, the connected miscellaneous petitions are also closed.

29.01.2026

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

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State Tax Officer – V (Roving Squad)
O/o. The Joint Commissioner (ST) (Intelligence)
Trichy Division, C/107, B3-II Floor
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<u>KRISHNAN RAMASAMY.J.,</u>

nsa

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(2/2)