BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.11956 of 2026
and
W.M.P(MD)No.9072 of 2026

Tvl.New Kaveri Super Market,
Represented by its Proprietor P.Sathishkumar,
GSTIN 33FYWPS2645G1ZT,
No-29/8, Thuraiyur Road,
Musiri. ... Petitioner

vs.

The State Tax Officer (FAC),
Kulithalai Assessment Circle,
Commercial Tax Building,
Kulithalai. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records in the impugned order in GSTIN Ref No.33FYWPS2645G1ZT/2021-22 dated 08.10.2025 issued by the respondent and quash the same as it is without jurisdiction and clear violation of statutory provisions.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This Writ Petition challenges the impugned order dated 08.10.2025, which is an assessment order passed under Section 73 of the TNGST Act 2017.

2. I have heard the learned counsel for the petitioner and the learned Additional Government Pleader representing the revenue.

3. By the impugned order, the assessment was made ex parte because the petitioner did not utilise the opportunities provided. The discrepancies and grounds on which the assessment order was issued, the dealer's explanation on merits, and the reasons for not participating in the assessment proceedings are summarised briefly and presented in a table below:

Discrepancies found/Grounds on which the order is passed	Explanation offered by the Assessee on merits	Explanation for not availing the opportunity
i)Excess Claim of ITC availed w.r.t form GSTR 2A to that of GSTR 09 return ii)ITC to be reverse on non-business transactions & exempt supplies iii)Claim of Ineligible ITC section 17(5) iv)Late fee for belated filing for Form GSTR 1 return v)Penalty under section 73 and interest and under section 50 of the GST Act	As far as the alleged discrepancy of input tax mismatch between form GSTR 09 to that of GSTR 2A, he submits the purchase was covered by proper tax invoice with collection of GST tax as provided under Section 31 of the GST Act and Rule 36 of the GST Rules With regard to ITC to be reversed on non business transactions & exempt supplies as per rule 42 & 43 of GST rules, during the course of business, he purchases the taxable and non-taxable goods. The exempted goods purchased are subsequently sold as exempt and taxable goods as taxable. Hence, there is no question of reversal input tax credit for exempt goods as no input is claimed against the exempt sales. The petitioner do maintain detailed accounts from which it can be clearly ascertained the details of the taxable, non-taxable inward and outward supplies. Therefore, in the absence of any misclassification, the question of reversing the ITC by adopting the formula method as per Rule 42 and 43 of the GST Act is legally not correct.. With regard to claim of ineligible ITC under section 17(5) of the GST Act, the petitioner submits that he had incurred expenses for purchase of materials only for resale. As the expenses were met for business purpose only and in furtherance of business, and therefore the same is eligible for availment under Section 16 of the CGST Act, 2017. As far as levy of late fee, he submits that only due to covid pandamic there was the delay uploading and the filing the return and hence there is no need for adverse inference In the absence of any excess claim or wrong claim the question of levy of interest under section 50 and penalty under section 73 of the GST act does not arise to the facts of this case.	The Part time accountant failed to notice the fact of issuing of the proceedings the respondent had only chose to upload all the communication, summons, notices, and orders only on the we portal. Because of the above reasons, the petitioner was not able to access the Web portal which resulted in the issuance of Ex Partee impugned order

4. Considering the nature of the discrepancies noted, the explanation provided by the assessee and the reason given before this Court for not availing the opportunity, I believe that an opportunity can be granted to the assessee to present their submissions and produce the relevant supporting documents before the respondent assessing officer. This Court has been extending such opportunities on equitable grounds; however, under appropriate conditions. Therefore, an opportunity is granted to the petitioner assessee on the condition of depositing 25% of the disputed tax amount.

5. In view of this, the writ petition is allowed on the following terms:-

i. Within four weeks of receiving the web copy of the order, the petitioner shall deposit 25% of the disputed tax amount with the respondent, without waiting for a certified copy of the order.

ii. Upon such deposit, the impugned order dated 08.10.2025 shall stand set aside, and the matter shall stand remanded back to the file of the respondent.

iii. The assessee shall appear before the respondent without fail and submit their reply and documents in support of their claim, and it is for the respondent to consider the matter afresh and pass orders in accordance with law.

iv. Since the impugned order of assessment is set aside, any attachment of the bank account made pursuant to the impugned order shall stand raised.

No costs. Consequently, connected Miscellaneous Petition is closed.

22.04.2026
(1/2)

NCC : Yes / No
ps

To

The State Tax Officer (FAC),
Kulithalai Assessment Circle,
Commercial Tax Building,
Kulithalai.

D.BHARATHA CHAKRAVARTHY, J.

ps

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