BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.12163 of 2026
and W.M.P(MD)No.9104 of 2026

Tvl.Sri Hari Krishna Product,
Represented by its Proprietor P.Sivalingam,
GSTIN 33ANVPS2378H1ZD, 38/1, East Street, Villapuram,
Madurai. ... Petitioner

vs.

1.The Assistant Commissioner (ST) (FAC),
Jaihindpuram Assessment Circle, Madurai.

2.The State Tax Officer,
Jahinpuram Assessment Circle, Madurai. ... Respondents

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 33ANVPS2378HIZD/2021-2022 dated 17.11.2025 passed by the first respondent followed by consequential rectification order in form GST DRC 08 in Ref. No.ZD3311252974690 dated 17.11.2025 passed by the second respondent and quash the same as it is without jurisdiction and clear violation of statutory provisions.

For Petitioner : Mr.S.Karunakar
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This Writ Petition challenges the impugned order dated 17.11.2025 which is an assessment order passed by the first respondent under Section 73 of the TNGST Act 2017 and followed by consequential rectification order dated 17.11.2025.

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

3. By the impugned orders, 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)ITC to be reversed on on-business transaction & exempt supplies as per rule 42 & 43 of the GST Rules	With regard to allegation that ITC is to be reversed on on business transaction & exempt supplies, he submits that during the course business, he purchases the taxable and non-taxable goods. The exempted goods(charcoal) 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. He maintains detailed accounts from which it can be clearly ascertained the details of the taxable, non-taxable and non-GST 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	The Part time accountant failed to notice the fact of issuing of the proceedings the respondent had only chosen to upload all the communication, summons, notices, and orders only on the web 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
ii)Claim of Ineligible ITC Section 17(5)	with regard to claim of ineligible ITC under section 17(5) of the GST Act, he submits that as per the provisions of Section 16(1) of CGST Act 2017, a registered person is entitled to take credit of the input tax Charged on an supply of goods or services which are used or intended to be used in the course or furtherance of business. As he had incurred expenses for business purpose only and as the same is infurtherance of business, he is entitled to claim the ITC	
iii)ITC claimed from cancelled dealers, return defaulters & tax non payers	with regard to ITC claimed from the tax payers Tvl. V.V.B. Srinivasan & Sons Paints Private Limited who had not paid tax on their outward supplies, he submits that 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	
iv)Late fee for belated filing of Form GSTR 1 return	as far as the 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	
v)Penalty under section 73 and interest under section 50 of the GST Act	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	

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 first respondent, without waiting for a certified copy of the order.

ii. Upon such deposit, the impugned order dated 17.11.2025 followed by consequential rectification order dated 17.11.2025 shall stand set aside, and the matter shall stand remanded back to the file of the first respondent.

iii. The assessee shall appear before the first respondent without fail and submit their reply and documents in support of their claim, and it is for the first 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

NCC : Yes / No
ps

To

1.The Assistant Commissioner (ST) (FAC),
Jaihindpuram Assessment Circle, Madurai.

2.The State Tax Officer,
Jahinpuram Assessment Circle, Madurai.

D.BHARATHA CHAKRAVARTHY, J.

ps

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