BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.06.2026

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THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.14681 of 2026
and
W.M.P(MD)No.10982 of 2026

Tvl.B.Rajalingam . ... Petitioner

Vs.

The Assistant Commissioner of CGST and Central Excise,
Dindigul-i Division,
Nehruji Nagar,
Dindigul-624001. ...Respondent

Prayer: Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records on the file of the respondent in Original No DGL-ST-ASC 16-2017 dated 28.08.2017 for the period 2011-12 to 2014-15 passed by the Respondent under section 73 of Finance Act 1994 and to quash the same as cryptic, non-speaking,illegal , arbitrary, wholly without jurisdiction and direct the respondent to pass assessment order afresh after affording opportunity of being heard or pass such further or other orders, as the Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner :Mr.N.Sudalai Muthu
For Respondent :Mr.R.Gowrishankar
Senior Standing Counsel

ORDER

The writ petition is filed challenging the impugned order dated 28.08.2017 passed under Section 73 of the Finance Act, 1994.

2. Heard Mr.N.Sudalai Muthu, learned counsel appearing for the petitioner and Mr.R.Gowrishankar, learned Senior Standing Counsel, who takes notice on behalf of the respondent.

3.The grievance of the petitioner is that a show cause notice was issued to him and after considering his reply, an assessment order came to be passed on 28.08.2017. As a matter of fact, a portion of the tax amount lying to the credit of the petitioner had already been recovered in the year 2017. Thereafter, in the year 2025 the balance tax due was also recovered. Subsequently, proceedings have now been initiated to recover the penalty and interest due. It is at this stage that the petitioner has belatedly approached this Court.

4. The learned counsel appearing for the petitioner would submit that it is true that the petitioner ought to have challenged the assessment order within the prescribed time. However, it must be noted that the petitioner was only a sub-contractor and was below the threshold limit. It is further submitted that, if an opportunity is granted, the petitioner would be in a position to satisfy the respondent with regard to the absence of liability. The petitioner is also stated to be in possession of supporting documents to substantiate his contention.

5. Per contra, the learned Standing Counsel appearing on behalf of the respondent would submit that the assessment order is of the year 2017. The petitioner has completely slept over his rights and has approached this Court only because recovery proceedings have now been initiated for the recovery of penalty and interest. Therefore, the writ petition ought not to be entertained. It is further submitted that it was for the petitioner to produce the necessary documentary proof when the opportunity was originally afforded.

6. I have considered the rival submissions made on either side and perused the materials available on record.

7. It is true that the petitioner's claim be belated, since the assessment order itself was passed in the year 2017. However, taking into account the special facts and circumstances of the case, namely that the petitioner was carrying on business at Vedasandur as a sub-contractor and that it is his specific case that he was working under the control of M/s. Chettinad Structural Engineering Ltd. and was not independently rendering services, this Court is inclined to consider his request. The reasons assigned by the petitioner for not effectively participating in the enquiry proceedings are also taken into account.

8. It is seen that, although a portion of the amount was recovered in the year 2017, steps for recovery of the remaining amount were taken only in the year 2025. The plea that the petitioner is a small-time contractor and that the entire differential tax liability has already been recovered is also taken into consideration. At present, what remains to be recovered is only the penalty and interest. Therefore, in the

circumstances of the case, and subject to the petitioner depositing a sum of Rs.1,00,000/-, I am of the view that an opportunity can be granted to the petitioner.

9. In view thereof, this writ petition is ordered on the following terms:-

i. Within four weeks from the date of receipt of the web copy of the order, the petitioner shall deposit another sum of Rs.1,00,000/- on the file of the respondent.

ii. Upon such deposit, the impugned order of assessment dated 28.08.2017, shall set aside and the matter stands remitted back to the file of the respondent.

iii. The respondent shall proceed from the stage of personal hearing. The petitioner shall, without fail, appear before the respondent and submit such additional reply and supporting documents as may be relied upon during the personal hearing. Thereafter, the respondent shall pass fresh orders in accordance with law.

iv. It is also made clear that since the matter is remanded back for fresh disposal, freezing of the petitioner's bank account shall stand raised.

v. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2026

Neutral Citation: No
rgm

To

The Assistant Commissioner of CGST and Central Excise,
Dindigul-i Division,
Nehruji Nagar,
Dindigul-624001.

D.BHARATHA CHAKRAVARTHY, J.

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