BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2026

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.36143 of 2025
and W.M.P.(MD)Nos.28747 & 28753 of 2025

TMP Manoharan & CO,
Represented by its CEO,
Mr.Ashok Kumar Manoharan,
Y-231, Block 29,
Neyveli – 607 807. ... Petitioner

Vs

1.Commissioner of GST & Central Excise (Appeals),
Circuit Office @ Trichy,
No.01, Williams Road, Cantonment,
Trichy – 620 001.

2.Assistant Commissioner of GST and
Central Excise,
No.1, Vallalar Nagar, Manjakuppam,
Cuddalore – 607 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari and quash the Order-in-Appeal No. 80/2025-TRY-ST-APP dated 04.09.2025 passed by 1st respondent.

For Petitioner : Ms.V.Pramila

For Respondents : Mr.R.Gowrishankar

O R D E R

This Writ Petition is filed challenging the impugned order passed by the first respondent dated 04.09.2025, wherein the appeal filed by the petitioner was rejected on account of non-payment of pre-deposit.

2. The learned counsel appearing for the petitioner by referring the communication said to have been sent by the Superintendent of GST & Central Excise, Neyveli Range 1, submitted that the petitioner paid the service tax. The said Superintendent has recognised that payment of Rs.3,09,440/- has been paid towards the service tax as on 20th March 2018. According to the petitioner, 7.5% of the service tax comes around to a sum of Rs.1,33,562/-. Since the petitioner has already paid a sum of Rs.3,09,440/- as service tax, there is no need to deposit a sum of Rs.1,33,562/- as pre-deposit. This vital aspect has not been considered by the 1st respondent, while disposing of the appeal. Further, the learned counsel appearing for the petitioner, by referring para No.5.2 of the impugned order, would submit that with regard to Rs.3,09,400/-, the respondent stated in the impugned order that the said amount pertains to the pre-deposit in respect of the appeals filed in different forums. However, the 1st respondent without citing the appeals or seeking any explanation from the petitioner has dismissed the appeal filed by the petitioner through the impugned order. Therefore, the impugned order is liable to be set aside.

3. The learned counsel appearing for the respondents would submit that the service tax of Rs.3,09,440/- relates to the period prior to 20th March 2018. Further, even after adjusting the amount of Rs. 3,09,440/-, which was already paid by the petitioner to discharge the service tax liability, the total balance amount of service tax that was supposed to be paid by the petitioner was quantified at Rs.43,95,738/- as on 20th March 2018. In the present case, proceedings were initiated by virtue of show cause notice dated 01.10.2018. After taking into consideration of Rs.3,09,440/- and the other amounts paid by the petitioner, the show cause notice was issued and subsequently, culminated in the order dated 05.03.2020, wherein service tax liability of the petitioner was quantified at Rs.17,80,821/-, after providing due credit with regard to the payment already made by the petitioner. Therefore, it is mandatory for the petitioner to pay the pre-deposit of 7.5% which comes to a sum of Rs.1,33,562/-. Since the said amount was not paid, the appeal was rejected. Hence, he prayed for dismissal of this Writ Petition.

4. This Court heard the submissions made by the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents and perused the materials available on record.

5. This Court finds force in the submissions made by the learned counsel appearing for the respondents. Admittedly, the petitioner has paid an amount of Rs.3,09,440/- as service tax, which was paid as on 20.03.2018. Even after providing adjustment to the said amount, a sum of Rs.43,95,738/- was quantified for service tax. Therefore, the show cause notice was issued on 01.10.2018 for the said amount. However, after taking into account the due credit made by the petitioner and after considering reply made by the petitioner, the assessment order was passed finally on 05.03.2020, quantifying the total service tax liability at Rs.17,80,821/-. While quantifying the said service tax liability, whatever the amount paid as on the date was given due credit. Therefore, merely referring the payment already made by the petitioner, which was acknowledged by the respondents, is totally irrelevant. However, the learned counsel appearing for the petitioner repeatedly referred the same. Of course, this is a payment that have been made by the petitioner for service tax liability, but subsequently, show cause notice was issued on 01.10.2018. Ultimately, in the final assessment order dated 05.03.2020, it was quantified at Rs.17,80,821/-. In the event of challenging the same before the appellate authority, the petitioner has to pay 7.5% out of Rs. 17,80,821/- which comes to a sum of Rs.1,33,562/-. Therefore, I do not find error in the impugned order of rejection of petitioner's appeal on the ground of failure for making pre-deposit of Rs.1,33,562/-. Hence, this Writ Petition is liable to be dismissed.

6. Accordingly, this Writ Petition is dismissed. However, the petitioner seeks liberty to approach the GSTAT for challenging the impugned order. However, this Court is not inclined to grant any liberty to the petitioner, because, this Court has elaborately passed the above order and it is up to the petitioner to challenge the impugned order before the GSTAT. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.01.2026

vsm
Index : Yes/No
NCC : Yes/No

KRISHNAN RAMASAMY, J.

vsm

To

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Trichy – 620 001.

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