

W.P.No.182 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 26.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.182 of 2025
and
W.M.P.Nos.191 and 194 of 2025

Tvl. Ezhil Arasan. K. Contractor,
No.13/2/31, Alaga Goundanoor,
Erakundapatty, Mettur – Salem – 636 – 453,
TamilNadu, GSTIN:33AAFPE6843C1Z6.

... Petitioner

Vs.

1. The Joint Commissioner (ST) Intelligence,
Group – 2, Commercial Taxes Building,
Hasthampatti, Salem – 636 007.

2. The Commercial Tax officer,
Salem, Tamilnadu.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records on the file of the first respondent in its impugned proceedings for the Assessment year 2022-23 in GSTIN:33AAFPE6843C1Z6 / 2022-2023 dated 20.06.2024 and the second respondent's consequential DRC-07 order bearing Ref No:ZD3306242759318 dated 24.06.2024 and quash the same.



W.P.No.182 of 2025

WEB COPY

For Petitioner : Ms. R.Hemalatha

For Respondents : Mrs.K.Vasanthamala
Government Advocate

ORDER

This case is listed along with the batch of cases challenging the proceedings initiated under Section 74 of the respective GST enactments.

2. A reading of the impugned order dated 20.06.2024 in DRC - 07 issued for the tax period 2022-2023 by the first respondent which was preceded by a Show Cause Notice in Form GST DRC-01 dated 07.05.2024, indicates that two defects were pointed out against the petitioner in the Show Cause Notice.

3. As far as the Defect No.1 is concerned, the demand proposed in the Show Cause Notice was dropped vide impugned order after considering the reply of the petitioner to the Show Cause Notice.

4. With regard to Defect No.2, the issue relates to the enhancement of the rate of tax from 12% to 18% pursuant to **Notification No.3/2022- Central Tax (Rate)** dated **13.07.2022** with effect from 18.07.2022. However, the petitioner



W.P.No.182 of 2025

categorically replied that the work was completed prior to 01.07.2022, though the payment for the work was received after the aforesaid date.

5. It is stated that the petitioner had discharged the tax liability at 12% at the rate it was prior to issuance of the aforesaid notification and not at 18%. It is further stated that the petitioner was not liable to pay the enhanced rate of tax and that, if the Government Department were to release the differential rate of 6%, the petitioner would pay the same.

6. The conclusion in the impugned order reads as under:-

“TAX PAYER’S REPLY:-

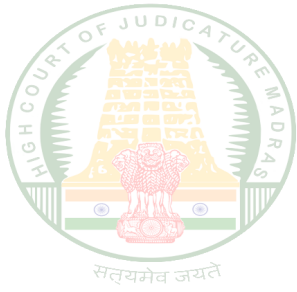
Estimated rate of tax from 12% to 18% w.e.f. 01.07.2022. Here, I would like to mention that two points.

- 1. In the entire payment, 12% GST work completed before 01.07.2022 and payment received after this date.*
- 2. The government department, never released 18% instead of 12% and in such situation, I am able to pay from my own. If government department releases the difference of 6% I will pay it immediately.*

PROPER OFFICER CONCLUSION:-

The above reply filed by the tax payer was carefully examined and it is not accepted Therefore, the above defect is ordered to confirmed and payable is calculated as detailed below:-

TAX			PENALTY			INTEREST		
IGST	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST
0	1223837	1223837	0	1223837	1223837	0	257106	257106



W.P.No.182 of 2025

ABSTRACT

Defects	Tax			Penalty			Interest			Total
	IGST	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST	
GSTR 2A Vs GSTR 3B	0	6664	6664	0	6664	6664	0	1400	1400	29456
Incremental rate of tax	0	1223837	1223837	0	1223837	1223837	0	257106	257106	2409561
TOTAL	0	1230501	1230501	0	1230501	1230501	0	258506	258506	5439017

7. A reading of the impugned order clearly shows that there was a non-application of mind while passing the impugned order. Therefore, the impugned order dated 20.06.2024 is quashed and the case is remitted back to the first respondent to pass a fresh order on merits and in accordance with law, as expeditiously as possible, preferably, within a period of three (3) months from the date of receipt of a copy of this order.

8. This Writ Petition stands disposed of with the above observations.
No costs. Connected Writ Miscellaneous Petitions are closed.

26.11.2025

Index : Yes/No
Neutral Citation : Yes/No
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W.P.No.182 of 2025

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To:

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