

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-11-2025

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THE HON'BLE MR JUSTICE C. SARAVANAN

**WP Nos. 3509, 3511, 3513, 3515 & 3516 of 2025
and W.M.P.Nos.26853, 26854, 26883, 26879, 26859, 26849, 3887, 3892,
3894, 3896 & 3898 of 2025**

Tvl.Sri Vignesh Pressure Vessels Testing
Enterprises,
(Represented by its Managing Partner,
Mr. L Mohanarangam),
138-2, Lmr Shopping Aracade,
Salem Road, Namakkal,
Tamil Nadu, 637001.

..Petitioner in all W.Ps.

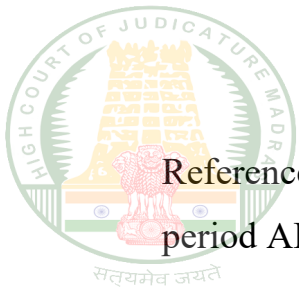
Vs

The State Tax Officer
(also Known As Commercial Tax Officer),
Inspection -III,
Salem (intelligence) Division.

..Respondent in all W.Ps.

PRAYER IN W.P.No.3509/2025 – The Writ Petition is filed under Article 226 of the Constitution of India, seeking Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC - 07 with Reference No. ZD3309240966901 dated 13.09.2024 along with detailed order in Reference No 33ADLFS9036N1ZF/ 2018-19 dated 13.09.2024 for the tax period NOV 2018 - MAR 2019 and quash the same.

PRAYER IN W.P.No.3516/2025 – The Writ Petition is filed under Article 226 of the Constitution of India, seeking Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC - 07 with Reference No. ZD3309240964434 dated 13.09.2024 along with detailed order in



Reference No. 33ADLFS9036N1ZF/ 2022-23 dated 13.09.2024 for the tax period APR 2022 - MAR 2023 and quash the same.

WEB PRAYER IN W.P.No.3511/2025 – The Writ Petition is filed under Article 226 of the Constitution of India, seeking Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC - 07 with Reference No. ZD3309240965036 dated 13.09.2024 along with detailed order in Reference No.33ADLFS9036N1ZF/ 2021-22 dated 13.09.2024 for the tax period APR 2021 - MAR 2022 and quash the same.

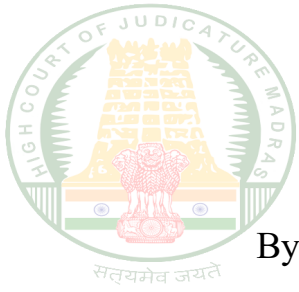
PRAYER IN W.P.No.3515/2025 – The Writ Petition is filed under Article 226 of the Constitution of India, seeking Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC -07 with Reference No.ZD3309240968014 dated 13.09.2024 along with detailed order in Reference No 33ADLFS9036N1ZF/ 2019-20 dated 13.09.2024 for the tax period APR 2019 - MAR 2020 and quash the same.

PRAYER IN W.P.No.3513/2025 – The Writ Petition is filed under Article 226 of the Constitution of India, seeking Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC - 07 with Reference No. ZD330924096586S dated 13.09.2024 along with detailed order Reference No 33ADLFS9036N1ZF/2020-21 dated 13.09.2024 for the tax period APR 2020 - MAR 2021 and quash the same.

(In all W.Ps.)

For Petitioner(s): Mr.N.Prasad

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate



COMMON ORDER

By this common order all these five Writ Petitions are being disposed of.

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2.By these impugned orders all dated 13.09.2024, the demand that was proposed in the show cause notice for the respective tax periods 2018-2019 to 2022-2023 have been confirmed against the Petitioner.

3.The Petitioner appears to be the Sub-Contractor of the main Contractor engaged by Oil Marketing Companies. It appears that the Petitioner is the owner of a fleet of Lorries which are used for transportation of products for oil marketing companies with whom the Petitioner's main contractor namely Tvl. New Vengaraiamman Bulk Carriers (URP) & Tvl. Arungaraiamman Transport (URP), have a contract.

4.The Petitioner has been sub-contracted by these two entities who are not registered with the Department. The Petitioner claim that the Petitioner was exempted from payment of GST in terms of **Serial No.21A – Notification No.12/2017 – Central Tax (Rate)** dated **28.06.2017**.

5.The aforesaid plea of the Petitioner has been rejected vide respective impugned orders, stating that the Petitioner has not satisfied the definition of the

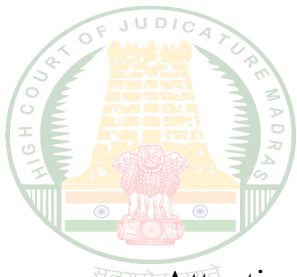


‘goods transport agency’. Attention of the Assessing Officer was drawn to Entry No.21A and definition Clause 2(ze) of the Notification.

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6.Relevant portion of **Notification No.12/2017 – Central Tax (Rate)** dated **28.06.2017** reads as under:

List of Exempted supply of services under the CGST Act - 12/2017 - Central GST (CGST) Rate				
Government of India				
Ministry of Finance				
(Department of Revenue)				
Notification No. 12/2017- Central Tax (Rate)				
New Delhi, the 28 th June, 2017				
G.S.R. 691(E) .- In exercise of the powers conferred by ⁴⁹[sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148,] of the <u>Central Goods and Services Tax Act, 2017 (12 of 2017)</u>, the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under <u>sub-section (1) of section 9</u> of the said <u>Act</u>, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-				
Table				
Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition



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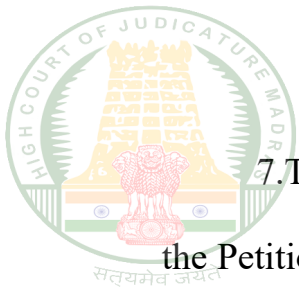
Attention of the Assessing Officer was drawn to Entry No.21A and definition Clause 2(ze) of the Notification.

10[21A	Heading 9965 or Heading 9967	Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: - (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any Society registered under the <u>Societies Registration Act, 1860 (21 of 1860)</u> or under any other law for the time being in force in any part of India; or (c) any Co-operative Society established by or under any law for the time being in force; or (d) any body corporate established, by or under any law for the time being in force; or (e) any partnership firm whether registered or not under any law including association of persons; (f) any casual taxable person registered under <u>the Central Goods and Services Tax Act</u> or <u>the Integrated Goods and Services Tax Act</u> or <u>the State Goods and Services Tax Act</u> or <u>the Union Territory Goods and Services Tax Act</u> .	Nil	Nil]
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2(ze) 'goods transport agency' means any person who provides service in relation to transport of goods by road and issues a consignment note by whatever name called, but does not include

(i) an electronic commerce operator by whom the services of local delivery are provided,

(ii) an electronic commerce operator through whom the services of local delivery are provided."



7. Today, when the case is taken up for hearing, the learned counsel for the Petitioner submits that the Petitioner had an exemption also under Serial No. 18 to the said notification, which is reproduced below:

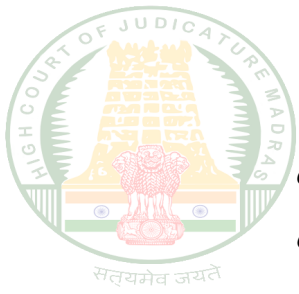
18	Heading 9965	Services by way of transportation of goods- (a) by road except the services of- (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways.	Nil	Nil
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8. It is submitted that even if the Petitioner was not entitled to the benefit of Serial No. 21A of the above notification, the benefit of Serial No. 18 of the notification should have been made.

9. On a specific query as to whether the Petitioner has taken this plea before the Respondent, it is firmly submitted by the learned counsel for the Petitioner that this plea was not taken by the Respondent. However, it is submitted that this plea has been taken before this Court in the affidavit filed in support of the present Writ Petition.

10. Learned counsel for the Petitioner has drawn the attention of this Court to some of the grounds raised in the affidavit which are extracted below:

“(iv). That the impugned orders suffer from error of law apparent on the face of the records because they are patently



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contrary to Entry 18 of Notification 12/2017 which expressly exempts a transportation service provided by an entity which is not a GTA.

(v). That even proceeding on the basis of the finding of renting, the impugned orders will still suffer from error apparent on the face of records being contrary to Entry 21A of Notification 12/2017 dated 28.06.2017.”

11. In response to the same, the Respondent has stated as under in counter affidavit, which reads as follows:-

9. It is most humbly submitted that the Petitioner's contention that the impugned order is contrary to Entry 18 of Notification 12/2017 is incorrect. The Petitioner does not qualify as a Goods Transport Agency (GTA) under the GST law, as they do not issue consignment notes. Therefore, the exemption under Entry 18 is not applicable.

10. With regard to the averments made in Para 4 of the affidavit, brief narration of their business activities of the Petitioner. The Petitioner is a partnership firm engaged in providing transportation services, primarily as a sub-contractor to two firms, namely M/s. New Vengaraiaimman Bulk Carriers (URP) and M/s. Arungaraiaimman Transport (URP). These firms, in turn, are engaged by Public Sector Oil Marketing Companies (OMCs) such as Indian Oil Corporation Limited (IOCL), Bharat Petroleum Corporation Limited (BPCL), and Hindustan Petroleum Corporation Limited (HPCL) for the transportation of goods. During scrutiny of returns and investigation, it was found that the Petitioner's activities amount to renting of motor vehicles with operators, which attracts GST at the applicable rate. The exemption under Entry 18 of Notification 12/2017-Central Tax (Rate) is not applicable as the Petitioner's services do not qualify as pure transportation services.

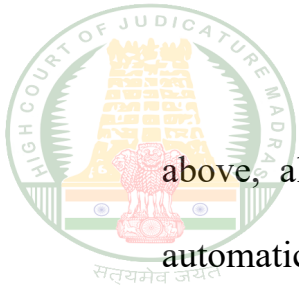
14. As regards the allegation made in grounds i to x of the affidavit in paragraph 7, it is respectfully submitted that the principles of natural justice were fully complied with. The Petitioner was given multiple opportunities to respond to the notices and was afforded a personal hearing. The impugned order was passed after considering the Petitioner's submissions.



12. The argument of the Respondent that the Petitioner does not qualify as a 'goods transport agency' and thereby denying the benefit of Serial No.21A of the Notification cannot be countenanced as Serial No.21A of the notification itself applies to persons other than the GTA and Courier Agency. It specifically applies to services by way of transportation of goods - (a) by road except the services of (i) a goods transportation agency and (ii) a courier agency. This aspect needs to be examined afresh.

13. Therefore, the impugned orders are quashed and the cases are remitted back to the Respondent to pass fresh orders after examining the alternate plea of the Petitioner as to whether the Petitioner is entitled for benefit under **Serial No.18 to Notification No.12/2017 – Central Tax (Rate)** dated **28.06.2017**. The Petitioner may give an additional reply within a period of 30 days from the date of receipt of a copy of this common order. The Respondent shall thereafter proceed to pass fresh orders on merits after hearing the Petitioner.

14. Considering the fact that the impugned orders are being set aside and cases are remitted back, all recovery proceedings and quasi proceedings shall be kept in abeyance, subject to any adverse orders being passed. In view of the



above, all the attachment of the Petitioner's bank account shall also stand automatically vacated.

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15. With the above observations, all these Writ Petitions are disposed of.

No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index: Yes/No

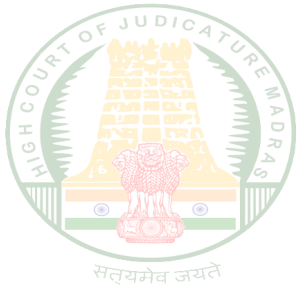
Speaking/Non-speaking order

Neutral Citation: Yes/No

GSA

To

The State Tax Officer,
(also Known As Commercial Tax Officer), Inspection -III,
Salem (intelligence) Division.



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WP Nos. 3509, 3511, 3513, 3515 & 3516 of 2



C.SARAVANAN, J.

GSA

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