IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 11870 of 2024

P.K. Marketing
Represented By Its Proprietor Karankumar G S/o
Govardhanan Residing At No 48 /21 Amman Koil
Street, Kodungaiyur Chennai Tamil Nadu 600 118

..Petitioner(s)

Vs

1. The Deputy State Tax Officer
   Kodungaiyur Assessment Circle Station No 32 Integrated Commercial Tax Office Complex Elephant Gate Bride Road Chennai 600 003
2. Assistant Commissioner
   (st) (fac) Kodungaiyur Assessment Circle Room No 203 2nd Floor No 32 Intergrated Ct Building Elephant Gate Bridge Road
   Chennai 600 003 ..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records with respect to the order passed by the 1st Respondent in order No GSTIN / 33KEYPK4361E1Z2 / 2022-23 dated 21.10.2023 and quash the same and further direct the 1st Respondent to stop the recovery action taken against the petitioner vide letter dated 08.03.2024 under section 79 of the Tamil nadu Goods and Service Tax 2017 / Central Goods and service Tax Act.

For Petitioner(s): Mr.Adithiyan V

For Respondent(s): Ms.Amirtha Poonkodi Dinakaran, GA

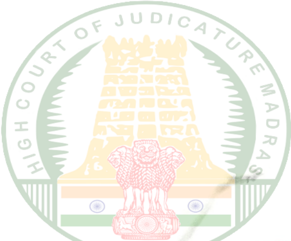
ORDER

Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate, takes notice for the Respondents.

2. This Writ Petition is being disposed of at the stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Government Advocate for the Respondents.

3. The petitioner is before this court against the impugned order dated 21.10.2023. This Writ Petition has been filed on 16.04.2024 long after the period of expiry of limitation.

4. The challenge of the impugned order is primarily on the ground that in response to the notice in DRC 01 dated 10.05.2023, the petitioner had responded by filing a reply on 29.08.2023 in Form DRC 06. The reply reads as under:-



Reply to the Show Cause Notice

ARN: ZD330823168737Y

Date: 29/08/2023

1. GSTIN	33KEYPK4361E1Z2	
2. Name	KARANKUMAR G	
3. Details of Show Cause Notice	Reference No. ZD330523044180Y	Date of issue 10/05/2023
4. Financial Year	2022-2023	
5. Reply		
Sir, As per notice received with regard to above SCN, it is mentioned in the notice that I have claimed excess ITC in comparison with GSTR 2 B for the period from April 2022 to Dec 2022. But I have claimed only eligible Input credit and which is available in GSTR 2B. Attached GSTR 2B report and reconciliation report for your ready reference. Please consider the fact and do the necessary. Thanking you.		
6. Documents uploaded		
GSTR 2B from Apr to Dec 2022.pdf Reconciliation - 3B & 2B.pdf		
7. Option for personal hearing	☐ Yes	☑ No

5. The impugned order has confirmed the demand. The petitioner's above reply has been considered and the petitioner ought to have been vigilant by filing an appeal before the Appellate Commissioner or in alternative approach this court at an earlier point of time.

6. As such, the Writ Petition is liable to be dismissed in the light of the Decision of the Hon'ble Supreme Court in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

7. However, considering the fact that though the petitioner had replied, it is noticed that the reply is not detailed and I am inclined to remit the case back to the respondent subject to the petitioner depositing the entire disputed tax as a condition precedent for the *denovo* adjudication of the disputed amount confirmed in the impugned order.

8. Learned counsel for the Petitioner also submits that the petitioner will deposit the aforesaid amount within a period of two months from today.

9. The learned counsel for the Petitioner has also made the following endorsement to that effect in the Court bundle which has been extracted hereunder:-

> ***"For Petitioner 100% willing to deposit within 2 months"***

10. Recording the above consent given by the Petitioner, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 100% of the disputed tax in cash or from the Petitioner's Electronic Cash Register within a period of two months from **today.**

11. Within such time, the Petitioner shall also file a reply to the Show

Cause Notice in Form GST DRC-01 dated 10.05.2023 together with requisite documents to substantiate the case by treating the impugned Order dated 21.10.2023 as an addendum to the Show Cause Notice dated 10.05.2023.

12. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such pre-deposit. Subject to the Petitioner complying with the above stipulations and **filing a proper reply,** the attachment of the bank account of the Petitioner if any, shall also stand automatically vacated.

13. It is made clear that bank attachment shall be lifted subject to the Petitioner depositing 100% of the disputed tax as ordered above and the Petitioner not being in arrears of any other amount for any other tax period barring the amount demanded under the impugned Order.

14. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

15. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

C.SARAVANAN.J.,
gv

16. Any amount recovered or already paid by the Petitioner shall be adjusted towards the disputed tax.

17. This Writ Petition stands disposed of with the above observations. No costs.

08-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GV

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To

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