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W.P.No.15483 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15483 of 2025

and

W.M.P.Nos.17489 & 17493 of 2025

M/s. Hotel Ennordee International Pvt. Ltd.,
rep. By its Authorized Signatory, Mr.R.Sampath

...Petitioner

Vs.

The Assistant Commissioner
Porur Division, Chennai South Commissionerate
O/o. Assistant Commissioner of CGST & Central Excise,
Plot No.2054, I Block, 12th Main Road,
II Avenue, Anna Nagar, Chennai – 600 040.

...Respondent

For Petitioner : Mr.S.Yogalakshmi

For Respondent : Mr.B.Sivaraman
Junior Panel Counsel for
Mr.Rajnish Pathiyil
Senior Panel Counsel

Order

The learned counsel appearing for the petitioner would submit that a notice in Form GST DRC-01A dated 26.06.2024 was issued under Section 74 of the GST Act; that the petitioner, on receipt of such notice, on wrong advise, paid 10% of the penalty, however, the respondent issued a show

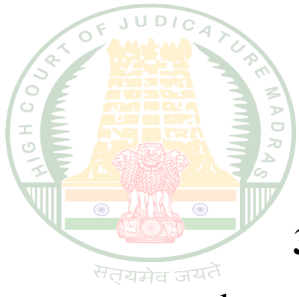


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cause notice under Section 74 of CGST/TNGST Act, 2017 dated 16.07.2024; that the petitioner, on receipt of the same, remitted a sum of Rs.39,84,344/- towards tax liability and filed a brief reply, thereby, requesting the respondent to grant 15 days time for filing effective and detailed reply along with required, and accordingly, filed detailed reply on 06.01.2025, but, the respondent, without taking into consideration of the said reply, passed the impugned order dated 03.02.2025.

1.1 It is the main contention of the learned counsel for the petitioner that the demand can be made under Section 74 of the CGST/TNGST Act only if any tax has not been paid, or short paid, or erroneously refunded or where, ITC has been wrongly availed or utilized due to reasons of fraud, suppression of facts or wilful misstatement, whereas, in the present case, the show cause notice is bereft of any such alleged ingredients of fraud, wilful misstatement and suppression of facts, therefore, there is no scope to invoke Section 74 of CGST / TNGST Act,2017. Thus, by averring so, the learned counsel prays for an interim order.

2. Mr.B.Sivaraman, learned Junior Panel Counsel for Mr.Rajnish Pathiyil, learned Senior Panel Counsel, takes notice on behalf of the respondent and seeks time for getting instructions in the matter.



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3. Post the matter on 01.07.2025. However, considering the fact that the petitioner has already remitted a sum of Rs.39,84,344/- towards tax liability, there will be an order of interim stay of further recovery.

4. Insofar as Dispense With Petition in W.M.P.No.17489 of 2025 is concerned, the same is ordered.

30.04.2025

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To

The Assistant Commissioner
Porur Division, Chennai South Commissionerate
O/o. Assistant Commissioner of CGST & Central Excise,
Plot No.2054, I Block, 12th Main Road,
II Avenue, Anna Nagar, Chennai – 600 040.



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Krishnan Ramasamy,J.,

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