

W.P.(MD) No.10073 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.04.2026

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD) No.10073 of 2026

and

W.M.P.(MD) Nos.7936 & 7937 of 2026

M/s. Shivam Pharma,
Represented by its Partner
M.Ganeshkumar,
Nos.10, 11, 12,
Ammamandapam Road,
Srirangam, Tiruchirapalli - 620 006.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Srirangam Assessment Circle,
Commercial Taxes Building,
Municipal Colony, Moolathoppu,
Srirangam, Trichy - 620 006.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order of the respondent made in GSTIN: 33ADCFS7256D1Z7/2018-19 dated 30.07.2024 and Reference No. ZD330724347153J in GSTIN/ID ZD330724347153J dated 30.07.2024 passed for the F.Y. 2018-19 and quash the same as illegal, unlawful, without jurisdiction, illegal, arbitrary and violative of principles of natural justice.



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For Petitioner : Mr.J.Pooventherarajan

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This Writ Petition challenges the impugned order dated 30.07.2024, which is an assessment order passed under Section 73 of the TNGST Act 2017.

2. I have heard the learned counsel for the petitioner and the learned Additional Government Pleader representing the revenue.

3. By the impugned order, the assessment was made *ex parte* because the petitioner did not utilise the opportunities provided. The discrepancies and grounds on which the assessment order was issued, the dealer's explanation on merits and the reasons for not participating in the assessment proceedings are summarised briefly and presented in a table below:

<i>Discrepancies found/Grounds on which the order is passed</i>	<i>Explanation offered by the Assessee on merits</i>	<i>Explanation for not availing the opportunity</i>

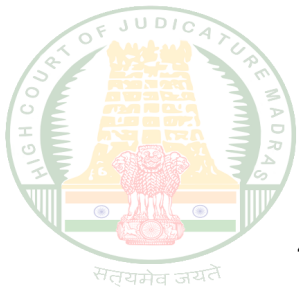


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Mismatch in ITC
between GSTR-3B
and GSTR-2A

- i. There is no mismatch in ITC between GSTR-3B and GSTR-2A.
- ii. The respondent erred in denying Input Tax Credit to the petitioner on the ground of alleged non-payment of tax by the suppliers, as the purchasing dealer cannot be penalised for the default of the selling dealer. Hence, the comparison between GSTR-2A and GSTR-3B as the sole basis for disallowance of ITC is wholly unsustainable in law.

- i. The petitioner's registration certificate was *suo motu* cancelled by the respondent on 06.12.2019.
- ii. Having cancelled the petitioner's registration, the respondent ought to have ensured proper service of notices through alternative modes as contemplated under Section 169 of the TNGST Act, including service by registered post.
- iii. The invocation of Section 74 of the TNGST Act in the present case is wholly without jurisdiction and unsustainable in law, inasmuch as there is no allegation or material to establish fraud, wilful misstatement, or suppression of facts with intent to evade tax, which are the *sine qua non* for invoking the said provision.



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4. Considering the nature of the discrepancies noted, the explanation provided by the assessee and the reasons given before this Court for not availing the opportunity, I believe that the assessee can be granted an opportunity to present its submissions and produce relevant supporting documents before the respondent/Assessing Officer. This Court has been extending such opportunities on equitable grounds, however, subject to appropriate conditions. Therefore, an opportunity is granted to the petitioner/assessee on condition of depositing 25% of the disputed tax amount.

5. In view thereof, this Writ Petition is allowed on the following terms:

- i. Within four weeks of receiving the web copy of this order, the petitioner shall deposit 25% of the disputed tax amount with the respondent, without waiting for the certified copy of this order.
- ii. Upon such deposit, the impugned order dated 30.07.2024 shall stand set aside and the matter shall stand remanded to the file of the respondent for fresh consideration.
- iii. The petitioner/assessee shall appear before the respondent, without fail and submit its reply along with supporting documents in support of its claim.



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- iv. Thereafter, it is for the respondent to consider the matter afresh and pass orders in accordance with law.
- v. Since the impugned order of assessment is set aside, any attachment of the bank account made pursuant to the said order shall stand raised.
- vi. No costs. Consequently, the connected Miscellaneous Petitions are closed.

09.04.2026

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Neutral Citation : No

To

The Assistant Commissioner (ST),
Srirangam Assessment Circle,
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D.BHARATHA CHAKRAVARTHY, J.

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