

W.P.(MD)Nos.27787 and 27788 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.P.(MD)Nos.27787 and 27788 of 2024**  
**and**  
**W.M.P.(MD)Nos.23585 and 23586 of 2024**

W.P.(MD)No.27787 of 2024:

M/s.SPK and Co,  
Represented by its Joint Managing Partner,  
2/67, RC Middle Street,  
Keelamudimannarkottai,  
Kamuthi, Ramanathapuram,  
Tamil Nadu – 623 603.

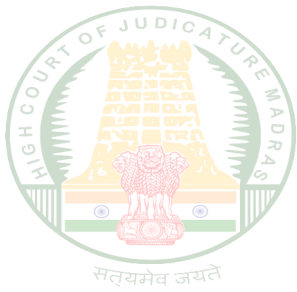
...Petitioner

Vs

The State Tax Officer,  
Muthukulathur Assessment Circle,  
Muthukulathur,  
Ramanathapuram District.

... Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order GSTIN: 33ABXFS5510P1ZG/2019-20 dated 07.08.2024 and impugned order GSTIN: 33ABXFS5510P1ZG/2019-20 dated 12.11.2024 passed by the respondent and quash the same.



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For Petitioner : Mr.B.Vijay Karthikeyan

For Respondent : Mr.J.K.Jayaselan  
Government Advocate

W.P.(MD)No.27788 of 2024:

M/s.SPK and Co,  
Represented by its Joint Managing Partner,  
2/67, RC Middle Street,  
Keelamudimannarkottai,  
Kamuthi, Ramanathapuram,  
Tamil Nadu – 623 603.

...Petitioner

Vs

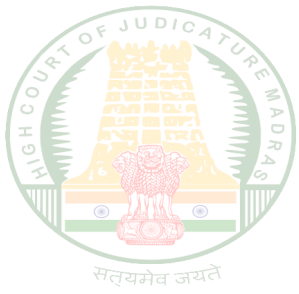
The State Tax Officer,  
Muthukulathur Assessment Circle,  
Muthukulathur,  
Ramanathapuram District.

... Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order GSTIN: 33ABXFS5510P1ZG/2022-2023 dated 07.08.2024 and impugned order GSTIN: 33ABXFS5510P1ZG/2022-2023 dated 12.11.2024 passed by the respondent and quash the same.

For Petitioner : Mr.B.Vijay Karthikeyan

For Respondent : Mr.J.K.Jayaselan  
Government Advocate



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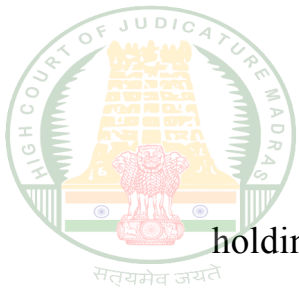
**COMMON ORDER**

WEB COPY Heard Mr.B.Vijay Karthikeyan, learned counsel for the petitioner and Mr.J.K.Jayaselan, learned Government Advocate for the respondent.

2. The Writ Petitions have been filed challenging the order of assessment and the order of rectification passed by the respondent, pertaining to the year 2019-2020 and 2022-2023.

3. The ground raised by the learned counsel for the petitioner is that the show cause notice was vague and he has also relied upon the order of the learned Single Judge of this Court in the case of *MD Electric Co Vs State Tax Officer, Chennai*, reported in (2024) 17 Centax 348 (Mad.) and contended that this Court had set aside the impugned order of assessment in similar case.

4. A perusal of the said order would show that the order impugned therein was the show cause notice which was found to be vague. In the present case, pursuant to the show cause notice, the petitioner has filed a detailed reply. On consideration of the detailed reply, the impugned order has been passed. The rectification application has been dismissed



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holding that the grounds raised in the rectification petition are all in the nature of challenging the order of assessment. Further, the challenge in the Writ Petition apart from the vagueness of the show cause notice which had already been held, since had been acted upon by the petitioner, the said claim could not be raised in the present Writ Petition. All other grounds are on the merits of the assessment order. Therefore, it would be proper for the petitioner to approach the appropriate authority.

5. At this juncture, the learned counsel for the petitioner would submit that the appellate authority would insist on calculating the period of limitation from the date when the original assessment order was passed and in such case, the appeal would be much beyond the period of limitation and would apprehend that the appeal would not be entertained as it is being made beyond the period of limitation. After assessment order has been made, Section 161 of the GST Act provides for an application to be made for rectification. Such rectification can be disposed either in favour of the assessee or against him. If any rectification is made as prayed for, the same would get merged into the original order. Just because the rectification application has been rejected, the period of limitation to challenge the original assessment



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order cannot be said to begin from the date on which the original order was passed, it would only count from the date on which the order of rectification has been passed.

6. In the present case, the original order of assessment was made on 07.08.2024 and the order in rectification was made on 12.11.2024. Therefore, the period of limitation for challenging the order of assessment dated 07.08.2024 shall start ticking from the date of rejection of the rectification application i.e., from 12.11.2024. It is made clear that when the appeal is filed by the assessee as against the original order of assessment, the period of limitation shall be calculated from the date on which the rectification had been dismissed.

7. With the above said liberty, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**22.11.2024**

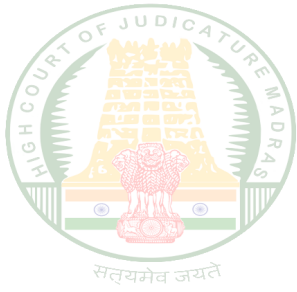
NCC:yes/no

Index:yes/no

Internet:yes/no

Nsr

**Note: Issue Order Copy on 25.11.2024.**



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**K.KUMARESH BABU, J.**

Nsr

**To:**

The State Tax Officer,  
Muthukulathur Assessment Circle,  
Muthukulathur,  
Ramanathapuram District.

**SAG**||blog

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22.11.2024