

W.P.(MD) No.16014 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.16014 of 2025
and
W.M.P.(MD) Nos.12110 & 12111 of 2025**

M/s. G.P. Construction,
rep. by its Partner G.Pari.

... Petitioner

Vs

1. The Commissioner,
CGST and Central Excise,
V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai - 625002.

2. The Superintendent of CGST Central Excise,
Thirupparankundram Range,
Madurai Division I,
V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai - 625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for



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issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the second respondent in O.C.No.22/2025, dated 12.02.2025 and quash the same on the ground of violation of natural justice, lack of jurisdiction and non-compliance of statutory procedure and consequently, direct the respondents to drop all further proceedings pertaining to the impugned order passed by the second respondent in O.C.No.22/2025 dated 12.02.2025.

For petitioner : Mr. R. Aravindan

For respondents :Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

This Writ Petition is disposed of at the time of admission, after hearing the learned counsel for the petitioner and learned Senior Standing Counsel for the respondents.

2. This Writ Petition is filed against the impugned Order-in-Original, bearing O.C.No.22/2025 dated 12.02.2025. The impugned order has preceded the show cause notices, dated 03.09.2024 and 25.11.2024. By the impugned order, the respondent has confirmed the following amounts:



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ORDER

i) I drop the demand of Rs.2450/- (CGST: Rs.1225/- and SGST: Rs. 1225/-) towards Ineligible ITC as the supplier had filed the 3B return and paid the tax, as discussed in para 10.3 above;

ii) I confirm the demand of late fee of Rs.13,630/- (CGST Rs.6815/-, SGST-Rs.6815/-)(Rupees thirteen thousand six hundred and thirty only) from the tax payer for the delayed filing of GSTR-3B returns, under section 47(1) of the CGST Act, 2017/TNGST Act, 2017, as discussed in para 10.4 above;

iii) I confirm the demand of late fee of Rs.50,910/- (CGST Rs.25,455/-; SGST Rs.25,455/-1 (Rupees fifty thousand nine hundred and ten only) from the taxpayer for the delayed filing of GSTR-1 returns under section 47(1) of the CGST Act, 2017 TNGST Act, 2017, as discussed in para 10.5 above;

iv) I confirm the demand of interest of Rs.11,82,520/- (CGST-Rs.5,91,260/-; SGST-Rs.5,91,260/-) (Rupees eleven lakhs eighty two thousand five hundred and twenty only) from the taxpayer on the delayed payment of tax of Rs.57,20,514/-, under Section 50(1) of the CGST Act, 2017/ TNGST Act, 2017 read with Rule 88B of the CGST Rule 2017, as discussed in para 10.2 above;

v) I impose a penalty Rs.5,72,052/ (CGST: Rs.2,86,026/- and SGST: Rs 2,86,026/-) (Rupees five lakhs seventy two thousand and fifty two only) on the tax payer under Section 73(9) of CGST Act, 2017/TNGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017/TNGST Act, 2017.”

3. It is the case of the petitioner that the petitioner has been wrongly



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mulched with interest and penalty, even though the petitioner has paid tax, although belatedly.

4. It is the further case of the petitioner that the petitioner's reply has not been considered and therefore, there is palpable error in the impugned order, warranting interference under Article 226 of the Constitution of India.

5. The learned Senior Standing Counsel for the respondents, on the other hand, would submit that this Writ Petition is devoid of merits and liable to be dismissed.

6. It is submitted that the petitioner has an alternate remedy by way of filing appeal before the Appellate Authority and therefore, the petitioner has to work out appellate remedy before the Appellate Authority.

7. I have considered the arguments advanced by the learned counsel for the petitioner and learned Senior Standing Counsel for the respondents.



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8. There is a dispute that the petitioner has paid disputed tax belatedly and therefore, the interest has been levied under Section 50(1) of CGST/TNGST Act, 2017 r/w Rule 88B of the CGST Rule, 2017. Therefore, there cannot be any scope for any interference.

9. As far as the demand for interest of Rs.11,82,520/- is concerned, the petitioner may have a case for interference that the penalty imposed for a sum of Rs.5,72,052/- under Section 73(9) of the CGST/TNGST Act, 2017 r/w Section 122(2) (a) of the respective Act, 2017. Therefore, the Court is inclined to dispose of this Writ Petition at the time of admission by directing the petitioner to pay the interest levied *vide* the impugned order and giving liberty to the petitioner to challenge the impugned order insofar as the imposition of penalty is concerned.

10. Insofar as the penalty is concerned, the petitioner has to comply with the other mandatory requirements under Section 107 of respective GST enactments including pre-deposit of 10% of the disputed penalty. If such appeal is filed within a period of 30 days from the date of receipt of a copy of this order, together with the above deposit, the Appellate Commissioner is directed to



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consider the appeal and dispose of the same without reference to limitation, if any that he may rise.

11. This Writ Petition is disposed of, with the above directions. No costs.

Consequently, connected miscellaneous petitions are closed.

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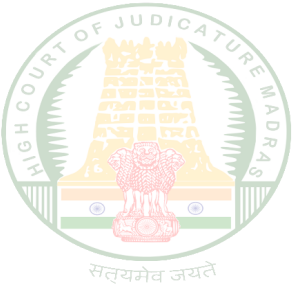
Internet : Yes / No

apd

To

1. The Commissioner,
CGST and Central Excise,
V.P.Rathinasamy Nadar Road,
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Madurai - 625002.

2. The Superintendent of CGST Central Excise,
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C.SARAVANAN, J.

apd



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