IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	27.11.2025
Pronounced on	08.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.31815 of 2025
and
W.M.P.No.35622 of 2025

Tvl.Power Lead Electricals,
Represented by its Proprietrix
J.Hemalatha ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Vaniyambadi Circle. ... 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 of the Respondent pertaining to the impugned order dated 03.02.2025 with Ref.No.ZD330225012714V and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

This case was heard along with a batch of 250 Writ Petitions and as one of the 53 Writ Petitions which were finally heard on the larger issue regarding the challenge to the proceedings under Section 74 of the respective GST Enactments.

2. In this Writ Petition, the Petitioner has challenged the Impugned Order dated 03.02.2025 for the Tax Period 2017-2018.

3. The Petitioner was earlier issued with an Intimation in Form GST DRC-01A dated 20.09.2023 for the Tax Period 2017-2018, to which, the Petitioner had replied on 29.10.2023 stating that the proposal in the said Intimation in Form GST DRC-01A dated 20.09.2023 was time barred in terms of limitation under Section 73 of the respective GST Enactments.

4. The disputed had arisen on account of a mismatch between the amount in GSTR-2A and the amount claimed by the Petitioner as Input Tax Credit in GSTR-3B.

5. The facts reveal that the Petitioner had claimed excess Input Tax Credit in GSTR-3B for discharging the tax liability during the Tax Period 2017-2018.

6. Since the Petitioner's reply was not found acceptable, a Show Cause Notice in Form GST DRC-01 dated 06.12.2023 was issued to the Petitioner. At this time, the Department has invoked Section 74 of the respective GST enactments. The Petitioner replied to the Show Cause Notice by a reply dated 04.01.2024. Pursuant to which, the Impugned Order has been passed under Section 74 of the respective GST Enactments on 03.02.2025.

7. By the Impugned Order, a sum of Rs.11,84,332/- has been confirmed as tax due from the Petitioner together with interest and penalty.

8. It is submitted by the learned counsel for the Petitioner that the invocation of machinery under Section 74 was a disguised. It is further submitted that the Respondent could have at best issued a Notice under Section 73 of the respective GST Enactments, within the time stipulated under the Act.

9. It is submitted that the Respondent had invoked Section 73 in the intimation dated 20.09.2023. Since the Petitioner objected the same on the ground of limitation, the Respondent had subsequently issued a Notice in

Form GST DRC-01 dated 06.12.2023 by invoking Section 74 of the respective GST Enactments.

10. It is further submitted by the learned counsel for the Petitioner that absolutely, there is no case made out for invoking the jurisdiction under Section 74 of the respective GST Enactments. That apart, it is submitted that having invoked the jurisdiction under Section 73 while issuing intimation in Form GST DRC-01A, it is not open to the Respondent to invoke machinery under Section 74 at a later point of time, after the Petitioner filed an objection on 29.10.2023.

11. The learned Government Advocate for the Respondent, on the other hand, would submit that the question of limitation either under Section 73 or 74 of the respective GST Enactments would not apply in the facts of the case as the last date for passing orders fell during the time when the limitation was suspended due to outbreak of Covid-19. It is submitted that the limitation under Section 73 of the respective GST Enactments could not have expired on 31.12.2021.

12. It is further submitted that since there is a variation in the amount specified in the returns in GSTR-2A and GSTR-3B that the Petitioner had claimed excess Input Tax Credit in GSTR-3B as compared to GSTR-2A, the Department was justified in invoking machinery under Section 74 of the respective GST Enactments, although an intimation was earlier issued under Section 73 of the respective GST Enactments in Form GST DRC-01A on 20.09.2023.

13. In the reply, the learned Government Advocate for the Respondent would submit that after the Petitioner was issued with an Intimation in Form GST DRC-01A dated 20.09.2023, the Petitioner failed to give a reply on merits. Instead, the Petitioner by reply dated 29.10.2023 stated as under:-

> *Sir, I have already given detailed reply on 25.07.2023. Kindly drop the further action. Further I submitted under this Section the Proper Officer shall issue the order under Section 73 within a period of three years from the due date for furnishing Annual Return for the financial year to which the tax not paid or short paid or Input Tax credit wrongly availed or utilised. It is therefore, the Central Government has issued an Order called the Central Goods and Services Tax Act, (Removal of Difficulties order) (Order 1/2018 dated 11.12.2018) under Section 172 of the CGST Act. Hence, the due date for the year 2017-2018 is 31.12.2018 only. Accordingly, the time limit for issuing the order falls on **31.12.2021**. Hence, the proposed assessment is time barred and not called for as per the limitation period.*

14. It is submitted that since the Petitioner's reply was inadequate and did not deal with the intimation in Form GST DRC-01A dated 20.09.2023, a fresh Notice was issued in Form GST DRC-01 dated 06.12.2023 by invoking Section 74 of the respective GST Enactments.

15. The learned Government Advocate for the Respondent would submit that since the Petitioner failed to respond to the intimation in Form GST DRC-01A, there is a suppression within the meaning of *Explanation-2* to Section 74 of the respective GST Enactments. Therefore, it is submitted that no case is made out for interfering with the Impugned Order confirming the demand under Section 74 of the respective GST Enactments.

16. The learned counsel for the Petitioner relied on the following cases:-

(i) ***Rajaa Offset*** Vs. ***The State Tax Officer [W.P.No.30189 of 2024]*** ;

(ii) ***M/s.The Chennai Silks*** Vs. ***The Assistant Commissioner*** [W.P.No.29104 of 2023];

(iii) ***Emco Cables (India) Private Limited*** Vs. ***Union of India and Ors.,*** W.P.(C).No.1622 of 2024;

(iv) ***Subhash Singh*** Vs. ***Deputy Commissioner, State Goods and Service Tax***, Special Appeal No.100 of 2024 and

(v) ***M/s.Tata Play Limited*** Vs. ***Union of India and Ors.,*** W.P.No.17184 of 2024.

17. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Government Advocate for the Respondent.

18. As stated earlier, by a Common Order today in **W.P.No.2142 of 2026** [**Turbo Energy Private Limited**], **W.P.Nos.35967, 35970, 35974 and 35976 of 2024** [**Fastenex Private Limited**] and **W.P.Nos.14487, 14492 and 14500 of 2025** [**Ispahani Estates Private Limited**], a detailed order has been passed insofar as the invocation of extended period of limitation under Section 74 of the respective GST Enactments.

19. In this case, the dispute pertains to the Tax Period 2017-2018. The last date for making demand under Section 73 would have expired on 31.12.2021 and the last date for passing order under Section 74 would have expired on 31.12.2023, 31.12.2018 being the last date on with the return for the Tax Period 2017-2018 had to be filed. However, from 15.03.2023, lock down was imposed due to outbreak of Covid-19. The time for passing orders/for initiating proceedings under various tax enactments including indirect tax enactment viz., respective GST Enactments, should have excluded the time period as per the decision of the Hon'ble Supreme Court in

In Re: Cognizance for Extension of Limitation in Miscellaneous Application Nos.**21 and 29 of 2022** in Miscellaneous Application No.**665 of 2021** dated **10.01.2022** from time to time.

20. Subsequently, TOLA ordinance was also issued and thereafter Section 168A of the respective GST Enactments was introduced vide the taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 220 (38 of 2020) published in the Gazette of India, Extraordinary, Part II, Section 1, dated 29.09.2020 which brought into force with effect from 31.03.2020 for extending the period of limitation under the statute.

21. Simultaneously, this Court has also issued Orders extending the period of limitation for passing Orders under Section 73 of the respective GST Enactments after excluding the period during the lock down. This has been captured in **M/s.Tata Play Limited and Others** Vs. **Union of India, Ministry of Finance, New Delhi and others** in W.P.Nos.17184 of 2024 etc., batch dated 12.06.2025 as modified by 05.11.2025 [2025 32 Centax 318].

22. The substituted Paragraph 9.61 from the modified Order is extracted below:-

Sl. No.	Financial Year	Actual / Original due date for filing Annual Return under Section 44(1)	Due date extended in exercise of power under Section 44 of CGST Act through Notifications	Period of limitation under Section 73(10) of CGST Act	Extended time limit under Section 73(10) for issuance of order under Section 73(9) in exercise of power under Section 168A of CGST Act (upto)	Limitation under Section 73(10) after exclusion of period 15.03.2020 to 28.02.2022 as per Order dated 10.01.2022 of the Hon'ble Supreme Court
1.	2017-2018	31.12.2018	05.02.2020 07.02.2020 (Notification No.06/2020)	05.02.2023	31.12.2023 (Notification No.09/2023)	21.01.2025 Adding 715 days
2.	2018-2019	31.12.2019	31.12.2020 (Notification No.80/2020)	31.12.2023	30.04.2024 (Notification No.56/2023)	27.02.2025 Adding 424 days
3.	2019-2020	31.12.2020	31.03.2021 (Notification No.04/2021)	31.03.2024	31.08.2024 (Notification No.56/2023)	28.02.2025 Adding 334 days

23. In view of the above, it cannot be said that the proceedings were time barred either under Section 73 or under Section 74 of the respective GST Enactments. There are indications in the Impugned Order dated 03.02.2025 that the Petitioner's returns were scrutinized under Section 61 and Form ASMT-10 was issued on 28.06.2023, pursuant to which the above mentioned Intimation and the Show Cause Notice were issued. Thus suppression of fact is at large. Therefore, there is no merits in this Writ Petition.

24. This is in view of the Common Order passed in the batch today by a Separate Order, wherein it has been explained in detail that the threshold for invoking the extended period of limitation under Section 74 of the respective GST Enactments is much lower compared to the earlier Indirect Tax Legislations.

25. Therefore, this Writ Petition is liable to be dismissed and it is accordingly dismissed. However, liberty is granted to the Petitioner to work out the remedy on merits before the Appellate Commissioner. The Petitioner shall file an appeal within a period of 30 days from the date of receipt of a copy of this order. In which case, the Appellate Commissioner shall entertain and dispose the appeal on merits subject to the Petitioner complying with the requirements of Section 107 of the respective GST Enactments.

26. This Writ Petition stands dismissed with the above liberty. No costs. Connected miscellaneous petition is closed.

08.06.2026

Neutral Citation : Yes / No

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To

The Deputy State Tax Officer-2,
Vaniyambadi Circle.

<u>C.SARAVANAN, J.</u>

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<u>Pre-delivery Order in
W.P.No.31815 of 2025</u>

08.06.2026