IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	26.11.2025
Pronounced on	08.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.23220 and 23540 of 2024
and
W.M.P.Nos.25389 and 25753 of 2024

W.P.Nos.23220 and 23540 of 2024

M/s.Chemplast Sanmar Limited,
Represented by its Vice President
Sreyas Arumbakkam ... Petitioner in both W.Ps

Vs.

The Assistant Commissioner (ST),
State GST Office,
Mettur Assessment Circle,
No.6/1/182, Sakthi Nagar,
Raman Nagar Post,
Mettur Dam – 636 403. ... Respondent in both W.Ps

Prayer in W.P.No.23220 of 2024: 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 in the impugned Show Cause Notice Reference No.ZD330524069035K dated 10.05.2024 and quash the same as it has been issued *sans* jurisdiction, in contravention of the Principles of Natural Justice, contrary to the provisions of law.

Prayer in W.P.No.23540 of 2024: 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 in the impugned Show Cause Notice Reference No.ZD330524069879S dated 10.05.2024 and quash the same as it has been issued *sans* jurisdiction, in contravention of the Principles of Natural Justice, contrary to the provisions of law.

For Petitioner (In both W.Ps)	:	Mr.Vijay Narayan Senior Counsel For Mrs.Radhika Chandra Sekhar
For Respondent (In both W.Ps)	:	Mr.V.Prashanth Kiran Government Advocate

COMMON ORDER

By this Common Order, both the Writ Petitions are being disposed of.

2. I have considered the arguments advanced by the learned Senior Counsel for the petitioner and the learned Government Advocate for the respondent.

3. 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.

4. I have passed a detailed 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]**. The argument of the Learned Senior Counsel for the Petitioner was also captured in the said order as this case was argued along with the batch.

5. I have explained the legal position in the said common order insofar as the challenge to proceedings invoking extended period of limitation under Section 74 of the respective GST Enactments. The ratio in the above mentioned common order will apply *mutatis mutandis* to the facts of the present case. The decision arrived herein has been Tabulated in the said Common Order. Therefore, this order is to be read in conjunction with the said Common Order.

6. For the sake of completion, I shall also give additional reasons for coming to the conclusion in this separate order in so far as the case of the Petitioner is concerned. Before that I shall briefly narrate the facts of this case.

7. In these Writ Petitions, the Petitioner has challenged the respective Show Cause Notices dated 10.05.2024 issued by the Respondent under Section 74 of the respective GST Enactments for the Tax Period between 2018-2019 and 2019-2020 whereby the following demands have been proposed on the Petitioner for the respective Tax Period as detailed below:-

Sl.No.	W.P.No.	Date of issuance of Show Cause Notice	Tax Period	Amount
1.	23220 of 2024	10.05.2024	2018-2019	624,81,52,060.00
2.	23540 of 2024	10.05.2024	2019-2020	83,45,92,000.00

8. The principle ground of challenge in these Writ Petitions insofar as the impugned Show Cause Notices are concerned is that, they have been issued without mentioning any of the ingredients for invoking the extended period of limitation under Section 74 of the respective GST Enactments though in the preamble to the impugned Show Cause Notices a reference has been made to Section 74 of the respective GST Enactments.

9. A Division of the Petitioner Company was merged with **M/s.Chemplast Cuddalore Vinyls Limited**. Simultaneously, **M/s.Sanmar Speciality Chemicals Limited** was merged with the Petitioner Company.

Similarly, there was also merger of M/s.SHL Securities (Alpha) Limited with M/s.Sanmar Engineering Services Limited with which this court is not concerned with. These were subject matter of a common order dated 26.04.2019 passed by the National Company Law Tribunal (NCLT), Single Bench, Chennai with C.P. No. CP/483/CAA/2019.

10. As per the aforesaid order of NCLT, the appointed date of the Scheme was **01.04.2018** which is also the effective date of merger and demerger.

11. On account of the amalgamation of **M/s.Sanmar Speciality Chemicals Limited** with the Petitioner, the Input Tax Credit lying un-utilized in the Electronic Credit Ledger of the latter along with the tax liability would have thus stood transferred in accordance with Section 18(3) of the respective GST Enactments to the Petitioner.

12. After the return were filed by the Petitioner for the respective tax period, an Audit under Section 65 of the respective GST Enactments was conducted which culminated in the issuance of an Audit report in Form GST ADT-02 dated 28.02.2023.

13. The Learned Senior Counsel for the Petitioner would specifically draw attention to Item Nos.8 and 9 of the aforesaid Audit Report dated 28.02.2023 which dealt with merger and de-merger i.e., merger of **M/s.Sanmar Speciality Chemicals Limited** with the petitioner and demerger of its Division of the Petitioner and its merger with **M/s.Chemplast Cuddalore Vinyls Limited**.

14. It is submitted that in the light of the aforesaid Audit Report in Form GST ADT-02 dated 28.02.2023, particularly, Item Nos.8 and 9, the Show Cause Notices was issued under Section 73 of the respective GST Enactments in GST DRC-01 dated 28.08.2023 for the Assessment Years 2018-19 and 2019-20. These Show Cause Notices culminated in two separate Assessment Orders both dated 10.10.2023 in respect of which summary was issued in DRC 07.

15. The learned Senior Counsel for the Petitioner would further submit that since the issue arose on account out of merger/de-merger, no notice issued could be under Section 74 of the respective GST Enactments separately. However, subsequently, the impugned Show Cause Notices dated

10.05.2024 have been issued for the very same tax period and is thus contrary to the law settled by the Hon'ble Supreme Court in **Nizam Sugar Factory Ltd. Vs Collector of Central Excise 2006** (178 E.L.T 465).

16. It is submitted that the impugned Show Cause Notices are further bereft of details to justify the invocation of the extended period of limitation under Section 74 of the respective GST Enactments.

17. On merits, the learned Senior Counsel for the Petitioner would draw a reference that there was no case made out for issuance of a Notice under Section 74 of the respective GST Enactments on account of the order of NCLT dated 26.04.2019.

18. The Learned Senior Counsel for the Petitioner has also placed reliance on the following decision of the Courts referred to in the following cases:-

i. **Kiran Gems Private Limited** Vs. **Union of India**, (2021-TIOL-237-HC-MUM-ST);

ii. **Rashtriya Ispat Nigam Limited** Vs. **Deputy Commissioner (CT), III**, (2022) 143 Taxmann.com 199 (Madras);

iii. **3i Infotech** Vs. **CST**, (2017) 51 STR 305;

iv. **Pushpam Pharmaceuticals Company** Vs. **Collector of Central Excise, Bombay**, 1995 (78) ELT 401 (SC) and

v. **M/s.Sri Om Sakthi Traders, Represented by its Director** Vs. **The State Tax Officer (Intelligence), Cuddalore** in Writ Petition Nos.895 and 899 2025 vide order dated 05.11.2025.

19. Learned Senior Counsel for the Petitioner has supplemented the oral submissions made on 15.10.2025 with written submissions.

20. Learned Government Advocate for the Respondent would submit that the Petitioner has challenged the impugned Show Cause Notices in the respective Writ Petitions.

21. It is submitted that the Petitioner had replied only to the Intimation Notices in GST DRC-01A dated 05.12.2023 which preceeded the impugned Show Cause Notice. However, the Petitioner has not replied to the respective impugned Show Cause Notices in GST DRC-01 dated 10.05.2024. Hence, it is submitted that the Petitioner may be relegated to give a proper reply to the Show Cause Notices and thereafter it is for the Petitioner to workout the remedy in the manner known to law.

22. Learned Government Advocate for the Respondent further submits that there is a discrepancy between the Audit Financial Statement of the Petitioner and the GSTR-9 and GSTR-9C and therefore the Respondent has issued the Intimation Notices under Section 74 of the respective GST enactments.

23. Having considered the submission of the Learned Senior Counsel for the Petitioner and the Learned Counsel for the Respondents, I shall now proceed to give my views.

24. It is noticed that pursuant to the merger of **M/s.Sanmar Speciality Chemicals Limited (SSCL)** with the Petitioner vide Order dated 29.04.2019 of NCLT, part of the Input Tax Credit which was said to have been lying unutilized in the hands of the said SSCL company was transferred in the name of the Petitioner under Section 18(3) of the respective GST Enactments.

25. A Division of the Petitioner which was also demerged and merged with **M/s.Chemplast Cuddalore Vinyls Limited** which also had tax implications on the Petitioner. This was subject matter of an audit under Section 65(6) of the respective GST Enactments for the Tax Period 2017-

2018 to 2020-2021 in respect of which Audit Report in Form GST ADT-02 dated 28.02.2023 was issued.

26. The limitation for passing orders under Section 73 and Section 74 of the respective GST Enactments would have expired on the following dates for the respective Tax Period:-

Tax Period	**Last date for filing Return in GSTR 9 & GSTR 9C**	**Last date for passing order under Section 73**	**Last date for passing order under Section 74**
2018-2019	31.12.2019	31.12.2022	31.12.2024
2019-2020	31.12.2020	31.12.2023	31.12.2025

27. As per the decision of this court in **M/s.Tata Play Limited, Represented by its Authorized Signatory and others** Vs. **Union of India, Through its Secretary and others**, in W.P.Nos.17184 of 2024 etc., batch dated 12.06.2025 rendered on 12.06.2025 and as modified vide order dated 05.11.2025, certain period of time for the purpose of computation of limitation for passing Order under Section 73 of the respective GST Enactments would stand excluded. Paragraph No.3 of the 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

28. Thus, even if the machinery under Section 74 of the respective GST Enactments was not available, the proceedings can be completed under Section 73 of the respective GST Enactments was available for these two Tax Periods. Further, as per Section 75(2) of the respective GST Enactments, an Appellate Authority or an Appellate Tribunal or the Court can conclude that the Notices issued under Section 74(1) of the respective GST Enactments was/were not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been

established against the person to whom such a notice was issued. It empowers the Proper Officer to determine the tax payable by such person, deeming as if, the notice issued under sub Section (1) of Section 74 was/were issued under Sub-Section (1) of Section 73.

29. However, this is possible only if orders are passed and the same is subject matter of challenge before an Appellate Authority or the Appellate Tribunal or the Court.

30. The decision of the Hon'ble Supreme Court in **Nizam Sugar Factory case** (referred to *supra*), is not applicable to the facts of the case, merely the Department was aware of the relevant facts, when earlier Order was passed invocation of extended period of limitation was thus available in the facts of the present case.

31. The decision of the Hon'ble Supreme Court in **Nizam Sugar Factory case** (referred to *supra*), dealt with a case where the Department had issued the **1st Show Cause Notice** under Section 11A of the Central Excise Act, 1944 to the Appellant therein on **28.02.1984** for the period between **February 1978 and September 1982**.

32. There, it was alleged that the said company had cleared Carbon Dioxide without payment of duty to another unit in contravention to Rule 9(1) of the Central Excise Rules, 1944 without obtaining license for manufacturing of Carbon Dioxide in the Factory and without filing of classification list and price list and without maintaining the accounts.

33. There the case was heard on **16.04.1984** and thereafter no action was taken in the matter. Subsequently, a **2nd Show Cause Notice** was issued on **16.07.1987** for the Tax Period between **1982-1983** and **1986-1987**.

34. Thereafter, the Appellant therein was issued with 3rd **Show Cause Notice** dated **12.09.1988** for the **Tax Period** between **16.03.1988** and **27.06.1988** on the same allegation which was also responded.

35. It was in that context, the invocation of extended period of limitation under Section 11A of the Central Excise Act, 1944 was held not to avail tax for the Tax Period between **1982-1983** and **1986-1987** in the **2nd Show Cause Notice** on issued on **16.07.1987**.

36. Paragraph No.11 of the said Judgment reads as under:-

> *"11. Allegation of suppression of facts against the appellant cannot be sustained. When the first SCN was issued all the relevant facts were in the knowledge of the authorities. Later on, while issuing the second and third show-cause notices the same/similar facts could not be taken as suppression of facts on the part of the assessee as these facts were already in the knowledge of the authorities. We agree with the view taken in the aforesaid judgments and respectfully following the same, hold that there was no suppression of facts on the part of the appellant assessee."*

37. There, the Hon'ble Supreme Court followed its earlier ratio in the following cases:-

> (i) **ECE Industries Ltd. v. CCE** [(2004) 13 SCC 719 : (2004) 164 ELT 236] and
>
> (ii) **P&B Pharmaceuticals Private Limited** Vs. **Collector of Central Excise**, (2003) 153 ELT 14/(2003) 3 SCC 599 :-

38. Therefore, the decision of this court in Nizam Sugar case referred to *supra* is not applicable to the facts of the case.

39. It is noticed that several discrepancies were pointed out in the Audit Report dated 28.02.2023 in Form GST ADT-02 pursuant to Audit

under Section 65 of the respective GST Enactments which ultimately culminated in two separate Assessment orders dated 10.10.2023 for the respective Assessment Years namely 2018-2019 and 2019-2020 under Section 73 of the respective GST Enactments.

40. These two Assessment Orders both dated 10.10.2023 were set aside subsequently, vide common order dated 21.12.2023 in W.P. No's. 35140 of 2023, 3182 of 2023, 35187 of 2023, 35209of 2023 , and 35213 of 2023.

41. Pursuant to the aforesaid order dated 21.12.2023, the revised order dated 24.05.2024 in GST DRC – 07 were passed under Section 73 of the respective GST Enactments.

42. Snapshot of the Tax Demand in these two Assessment Years pursuant to the Audit report in ADT-02 are detailed as under:-

ADT-02 dated 28.08.2023				
	Form	**Date**	**2018-19**	**2019-2020**
	DRC- 01A	20.06.2023 (27.01.2023)	NA*	NA*
	DRC- 01	28.08.2023	44,92,32,679	12,79,89,699
	DRC- 07	10.10.2023	NA*	NA*

	Revised DRC-07	24.05.2024	3,31,38,004	3,36,21,987

Note:- * Not available in the type set details.

43. The above Show Cause Notices and Assessment Orders passed under Section 73 of the respective GST Enactments were on the following heads namely:-

DRC- 01 (Dt: 28.08.2023) Revised DRC-07 (Dt: 24.05.2024) (u/s 73)	**Heads**	**FY: 2018-19**	**FY: 2019-20**
	1. Excess availment of ITC – mismatch between GSTR 2A & 3B	✓	✓
	2. CSR **(dropped)***	✓	✓
	3. Corporate Guarantee **(dropped)***	✓	✓
	4. Blocked Credit	✓	✓
	5. Remuneration paid to independent directors **(dropped)***	✓	NA
	6. OHC obligation **(dropped)***	✓	✓
	7. Provision for staging cricket matches **(dropped)***	✓	✓
	8. Related party transactions **(dropped)***	✓	✓
	9. MCA obligations	✓	✓
	10. Credit Note issued **(dropped)***	✓	✓
	11. TDS Receipts **(dropped)***	✓	✓
	12. ITC on invoices issued by professional cricketers	NA	✓
	13. Tax liability due to reverse charge **(dropped)***	NA	✓

Note: 1. * Dropped vide revised order dated 24.05.2024.

2. Serial Numbers are not same in the respective DRC-01. For the sake of convenience they have been tabulated in the table as above.

44. Some of the defects pointed out during the audit which were matter of Show Cause Notices dated 28.08.2023 were dropped are indicated in the above table vide revised order dated 24.05.2024.

45. As far as demand that has been proposed in the impugned Show Cause Notices are concerned are purely on account of mismatch in ITC between Annual Return in Form GSTR-9 and Reconciliation Statements of Table 12F in Form GSTR-9C during the course of Scrutiny under Section 61 of the respective GST Enactments.

46. The impugned Show Cause Notices has disputed the excess Input Tax Credit availed in GSTR-9C being more than the Input Tax Credit reflected in the Financial Statements indicating excess availing of Input Tax Credit. The respective Show Cause Notices read identically. For the sake of clarity they are extracted hereunder:-

W.P.No.23220 of 2024:-

"The datasets pertaining to relevant fields in Table 12 of Form 9C were examined, and the details of the taxpayer with high-value deviations in this area pertaining in this jurisdiction are brought out below:-

Year	R9C Table 12 ITC Availed – Audited Financials	R9C Table 12 ITC Claim in Annual Return	Unreconciled ITC (Table 12F of GSTR 9C)
2018-19	1468250880.00	4592326700.00	3124076030.00

W.P.No.23540 of 2024:-

"The datasets pertaining to relevant fields in Table 12 of Form 9C were examined, and the details of the taxpayer with high-value deviations in this area pertaining in this jurisdiction are brought out below:-

Year	R9C Table 12 ITC Availed – Audited Financials	R9C Table 12 ITC Claim in Annual Return	Unreconciled ITC (Table 12F of GSTR 9C)
2019-20	1347260030.00	1764556030.00	417296000.00

47. The respective impugned Show Cause Notices have invoked Section 74 of the respective GST Enactments. However, they have not specified the ingredients of Section 74 of the respective GST Enactments

namely fraud, wilful-misstatement, suppression of facts to evade tax. This would have been specified in ASMT 10 dated 16.05.2023, copy of which is not in the court file.

48. Snapshot of the tax demand amount alone for these two Assessment Years pursuant to the Audit report in ASMT 10 are as under:-

ASMT 10 dated 16.05.2023				
	Form	**Date**	**2018-19**	**2019-2020**
	DRC- 01A	05.12.2023 (21.12.2023)	312,40,76,030	41,72,96,000
	DRC- 01 (impugned)	10.05.2024	312,40,76,030	41,72,96,000

49. For the respective Tax Periods returns would have been already filed before the last date for filing of Annual Return in GSTR-9 and the Reconciliation Statement in GSTR-9C. The credit that was availed in the Books of Account by the Petitioner before the appointed date i.e., 31.12.2019 was to be reversed to the extent of demerger of its Division to M/s.Chemplast Cuddalore Vinyls Limited.

50. The impugned Show Cause Notices both dated 10.05.2024, have been issued pursuant to Scrutiny of the Returns under Section 61 of the

respective GST Enactments by invoking the machinery under Section 74 of the respective GST Enactments.

51. The petitioner has replied merely to the aforesaid Intimation in DRC-01A both dated 05.12.2023 in DRC – 06 on 21.12.2023, which is the date on which the order was passed by the Writ Court. Not being satisfied with the reply filed by the petitioner, the impugned show cause notice was issued on **10.05.2024** under Section 74 of the respective GST enactments. Further the records reveal that it would appear to the Proper Officer that tax was not paid by the Petitioner by reason of either Fraud, Willful mistatement or Suppression of tax to evade tax.

52. The demand in these proceedings are in respect of unreconciled Input Tax Credit in Table 12F of GSTR - 9C.

53. To what extent there is an overlap between the earlier proceeding and the impugned proceedings cannot be discerned without a reply. Therefore, it is for the Petitioner to reply to the impugned Show Cause Notices issued under section 74 of the respective GST Enactments as these proceedings cannot be circuited. Further to furnish reply will also amount to

suppression within the meaning of Explanation 2 to Section 74 of the respective GST Enactments.

54. Both Audit under Section 65 of the respective GST Enactments and Scrutiny under Section 61 of the respective GST Enactments can result in separate proceedings. Audit under Section 65 of the respective GST Enactments has culminated in ADT-02 dated 28.02.2023 which eventually led the respondent to passing of Assessment Orders dated 10.10.2023 for the Financial Years 2018-19 and 2019-20. As far as impugned Show Cause Notices are concerned they are under light of Scrutiny under Section 61 of the respective GST Enactments with issuance of ASMT 10 dated 16.05.2023. When earlier proceedings were initiated, it was incumbent on the part of the Petitioner to have paid tax voluntarily.

55. Considering the fact that GST regime is based on the self-assessments made by an assessee under Section 59 of the respective GST Enactments read with Rule 98 of the respective GST Rules. It cannot be straight away concluded that there were no ingredients for invoking extended period of limitation as the expression used is “where it appears to an Assessing Officer”. If it appears to an Assessing Officer from the records

particularly during the course of scrutiny under Section 61 of the respective GST Enactments, the assessee has not paid tax or short-paid tax by a reason of fraud or wilful-misstatement or suppression of fact to evade tax, Notice can be issued.

56. The impugned Show Cause Notices have been issued after comparing the Financial Statements with the appointed date in the NCLT order dated 29.04.2019 with reference to Table 12(f) of GSTR-9C Reconciliation Statement submitted by the Petitioner as was required under Rule 80(3) of the respective GST Rules for the respective Assessment Years.

57. The impugned Show Cause Notices correctly state that there is no restrictions in utilizing the Input Tax Credit and thus GST law imposes restrictions on the time period to avail Input Tax Credit. This could be however subject to relaxation vide Fianance (No. 2) Act, 2024 (15 of 2024), dated 16.08.2024, w.e.f. 27.09.2024 vide SO 4253(E), dated w.r.e.f. 01.07.2017.

58. As mentioned above, in the light of the decision of this court in **M/s.Tata Play Limited, Represented by its Authorized Signatory and others** Vs. **Union of India, Through its Secretary and others** referred to

*supra, e*ven otherwise the impugned Show Cause Notices issued on **10.05.2024** can be said to have been issued in time even for passing order under Section 73 of the respective GST Enactments for any reason other than **fraud or wilful-misstatement or suppression of fact** to evade tax.

59. *Prima facie,* the impugned Show Cause Notices speaks for itself and it can be inferred that there is suppression of facts. Thus, there were jurisdictional/foundational fact for invoking Section 74 of the respective GST Enactments.

60.That apart, the orders that were passed on 10.10.2023 pursuant to the Show Cause Notices issued on 28.08.2023 under Section 73 of the respective GST Enactments which were subject matter of W.P.Nos.35140, 35182, 35187, 35209 and 35213 of 2023 dated 21.12.2023 were based on the Audit Report in ADT-02 dated 28.02.2023 whereas the impugned Show Cause Notices have been issued in the course of Scrutiny of the Returns under Section 61 of the respective GST Enactments filed by the Petitioner in GSTR-9 and the Reconciliation Statements in GSTR-9C under Section 59 of the respective GST Enactments.

61. Therefore, these Writ Petitions are liable to be dismissed. The Petitioner is therefore directed to give a proper reply to the impugned Show Cause Notices and the respective summary of the Show Cause Notices in GST DRC-01 within a period of thirty (30) days from the date of receipt of a copy of this order. Upon receiving the reply, the Respondent shall pass a final order.

62. This Writ Petition is dismissed of with the above observations. No costs. Connected Writ Miscellaneous Petition is closed.

08.06.2026

Neutral Citation : Yes / No

raja/arb

To:

The Assistant Commissioner (ST),
State GST Office,
Mettur Assessment Circle,
No.6/1/182, Sakthi Nagar,
Raman Nagar Post,
Mettur Dam – 636 403.

C.SARAVANAN, J.

raja/arb

Pre-delivery Common Order in
W.P.Nos.23220 and 23540 of 2024

08.06.2026