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.29744 and 29747 of 2025
and
W.M.P.Nos.33368 and 33372 of 2025

Sampoornam (Deceased)
Proprietor of M/s.Murugan Tex … Petitioner in both W.Ps

Vs.

1.Assistant Commissioner (ST) (FAC) /
Commercial Tax Officer,
Salem Rural Circle,
3rd Floor, Pitchards Road,
Hasthampatty, Salem – 636 007.

2.Assistant Commissioner (ST),
Salem Rural Circle,
3rd Floor, Pitchards Road,
Hasthampatty, Salem – 636 007. … Respondents in both W.Ps

Prayer in W.P.No.29744 of 2025: 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 1st Respondent herein in Impugned Order passed in GSTIN: 33ARUPS8492B1Z7/2017-18 dated 31.01.2025 and quash the same as it is without jurisdiction.

Prayer in W.P.No.29747 of 2025: 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 1st Respondent herein in Impugned Order passed in GSTIN: 33ARUPS8492B1Z7/2019-20 dated 20.03.2025 and quash the same as it is without jurisdiction, and illegal.

For Petitioner (In both W.Ps)	:	Ms.G.Vardini Karthik
For Respondents (In both W.Ps)	:	Mrs.P.Selvi Government Advocate

COMMON ORDER

These cases were 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. 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.

3. In these Writ Petitions, the Petitioner has challenged the respective Impugned Assessment Orders in Form GST DRC-07 issued under Section 74 of the respective GST Enactments as detailed below:-

Sl. No.	W.P.No.	Assessment Year	Date of Pre-Show Cause Notice in GST DRC-01A	Date of Show Cause Notice in GST DRC-01	Date of Impugned Assessment Order
1.	29744 of 2025	2017-2018	12.10.2023	26.10.2023	31.01.2025
2.	29747 of 2025	2019-2020	19.09.2022	25.09.2024	20.03.2025

4. The facts on record reveal that the assessee died on 01.05.2020. The returns were filed and thereafter they were scrutinized and in the course of scrutiny, intimations in GST DRC-01A were issued in the name of the deceased/assessee for the respective Assessment Years as detailed below followed by a Show Cause Notice in GST DRC-01 together with detailed Show Cause Notice.

5. In W.P.No.29744 of 2025, the Petitioner has challenged the Impugned Assessment Order which has been passed under Section 74 of the respective GST Enactments on account of a mismatch between the Input Tax Credit reflected in GSTR-2A and GSTR-3B of the Petitioner.

6. Similarly, in W.P.No.29747 of 2025, the Petitioner has challenged the Impugned Assessment Order passed under Section 74 of the respective GST Enactments wherein the Petitioner has been imposed with a Late Fee under Section 47 of the respective GST Enactments on account of the belated filing of Annual Returns under Section 44 of the respective GST Enactments in Form GSTR-9.

7. The learned counsel for the Petitioner would submit that the assessee namely Mrs.Sampoornam died on 01.05.2020.

8. Insofar Assessment Order dated 31.01.2025 impugned in W.P.No.29744 of 2025 passed for the Assessment Year 2017-2018 is concerned, the limitation for passing order under Section 73 of the respective GST Enactments would have expired on **21.01.2025** as per the decision of the Court in **M/s.Tata Play Limited, Represented by its Authorized Signatory and others** Vs. **Union of India**, **Through its Secretary and others** dated **12.06.2025** as modified *vide* Order dated **05.11.2025**.

9. It is therefore submitted that since the Impugned Assessment Order was passed only on 31.01.2025 after issuing the aforesaid Show Cause

Notice dated 26.10.2023 and since the said Show Cause Notice does not specify any of the ingredients under Section 74 of the respective GST Enactments to justify either the issuance of the Show Cause Notice in GST DRC-01 dated 26.10.2023 or in the Impugned Assessment Order dated 31.10.2025, it is liable to be set aside.

10. It is also submitted that the Impugned Assessment Order is also passed in contravention of Section 75 of the respective GST Enactments.

11. Insofar as W.P.No.29747 of 2025 is concerned, the learned counsel for the Petitioner would submit that the due date for filing the returns in GSTR-9 would have expired initially on 31.12.2020. However, due to outbreak of Covid-19 pandemic, the date was extended to 28.02.2021 and further extended to 31.03.2021.

12. It is further submitted that neither the intimation in GST DRC-01A dated 19.09.2022 nor the Show Cause Notice in GST DRC-01 dated 25.09.2024 have either invoked the ingredients under Section 74 of the respective GST Enactments or justified the same in the Impugned

Assessment Order. Therefore, the Impugned Assessment Order is liable to be quashed.

13. It is further submitted that in the absence of any of the ingredients necessary for invoking Section 74 of the respective GST Enactments, the impugned Assessment Order is liable to be quashed.

14. That apart, it is submitted that last date for passing the Impugned Assessment Order under Section 73 of the respective GST Enactments would have expired on 31.08.2024. However, to get over the limitation prescribed under Section 73 of the respective GST Enactments, the Impugned Assessment Order has been passed on 20.03.2025 after a detailed Show Cause Notice was issued on 25.09.2024.

15. On the other hand, the Learned Government Advocate for the Respondents would defend the Impugned Assessment Order stating that the limitations under Sections 73 and 74 of the respective GST Enactments are irrelevant in the context of detailed filing of the returns contemplated in the respective Rules. Hence, it is submitted that machinery under Sections 73 and 74 of the respective GST Enactments are only intended for levying the tax that has not been paid.

16. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Government Advocate for the Respondents.

17. In the present case, the assessee expired on 01.05.2020. The factum of the death of the assessee on 01.05.2020 appears to have not been intimated to the Department. It is in this background, the intimations in GST DRC-01A followed by Show Cause Notices in GST DRC-01 were issued as detailed below:-

Sl. No.	**W.P.No.**	**Intimation in GST DRC-01A**	**Show Cause Notice in GST DRC-01**	**Date of Impugned Assessment Order**
1.	29744 of 2025	12.10.2023	26.10.2023	31.01.2025
2.	29747 of 2025	19.09.2022	25.09.2024	20.03.2025

18. None of the intimations in GST DRC-01A or the above-mentioned Show Cause Notices in GST DRC-01 were replied. Thus, they resulted in passing of the Impugned Assessment Orders on the dates mentioned above.

19. It was incumbent on the part of the deponent to have informed the Department that the assessee had died on 01.05.2020. Therefore, the argument that the proceedings were initiated contrary to the mandate of

Section 74 of the respective GST Enactments cannot be countenanced. In fact, the proceedings were initiated in the name of the deceased / assessee even though the assessee died on 01.05.2020 as there were no intimations about the death of the assessee.

20. 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.

21. That apart, even if the proceedings under Section 74 of the respective GST Enactments were not maintainable, the proceedings under Section 73 of the respective GST Enactments were still maintainable in view of the extensions granted by the Notifications issued under Section 168A of the respective GST Enactments and in view of the decision of the Hon'ble Supreme Court in **In Re: Cognizance for Extenstion 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.

22. This has been captured by this Court in its decision 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]. Paragraph No.3 of the Order dated **05.11.2025** is reproduced 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. Section 75(2) of the respective GST Enactments also mandates that where the proceedings initiated under Section 74 of the respective GST Enactments is found to be not established, orders can be passed under Section 73 of the respective GST Enactments.

24. As the Legal Heirs of the deceased assessee the Petitioner is bound to discharge the tax liability of the deceased assessee in terms of Section 93(1)(b) of the respective GST Enactments even if the business of the deceased assessee is discontinued. For the sake of clarity, Section 93 of the respective GST Enactments is reproduced below:-

> “**93. Special provisions regarding liability of pay tax, interest or penalty in certain cases**:
>
> (1) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016 (31 of 2016), where a person, liable to pay tax, interest or penalty under this Act, dies, then-
>
> (a) If a business carried on by the person is continued after his death by his legal representative on any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and
>
> (b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act,
>
> whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.”

25. Since the impugned Assessment Orders are *Ex parte* Orders, the impugned Assessment Orders are set aside and the cases are remitted back to the 1st Respondent to pass a fresh order on merits subject to the Petitioner depositing 10% of the disputed tax in cash from the Petitioner's

Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

26. Within such time, the Petitioner shall also file a reply to the Show Cause Notices in GST DRC-01 dated 26.10.2023 and 25.09.2024 together with requisite documents to substantiate the case by treating the Impugned Assessment Orders dated 31.01.2025 and 20.03.2025 as an addendum to the Show Cause Notices dated 26.10.2023 and 25.09.2024.

27. In case the Petitioner complies with the above stipulations, the 1st Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply / pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

28. It is made clear that bank attachment shall be lifted subject to the deposit of 10% of the disputed tax as ordered above and the Petitioner not being in arrears of any other amount for any other tax period barring the amount demanded under the Impugned Assessment Orders.

29. In case the Petitioner fails to comply with any of the stipulations, the 1st Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if these Writ Petitions were dismissed *in limine* today.

30. Needless to state, before passing any such order, the 1st Respondent shall give due notice to the Petitioner.

31. These Writ Petitions stand disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

08.06.2026

Neutral Citation: Yes / No

arb/raja

To:

1.Assistant Commissioner (ST) (FAC) /
Commercial Tax Officer,
Salem Rural Circle,
3rd Floor, Pitchards Road,
Hasthampatty, Salem – 636 007.

2.Assistant Commissioner (ST),
Salem Rural Circle,
3rd Floor, Pitchards Road,
Hasthampatty, Salem – 636 007.

C.SARAVANAN, J.

arb/raja

Pre-delivery Common Order in W.P.Nos.29744 and 29747 of 2025

08.06.2026