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.No.37279 of 2024
and
W.M.P.Nos.40299 and 40300 of 2024

Tvl.Vassi Hospitality Private Limited,
Represented by its Director
Sivagnanam ... Petitioner

Vs.

Assistant Commissioner (ST),
Alandur Assessment Circle (South - III),
Room No.352,
Anna Salai, Nandanam,
Chennai -600 035. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records in Order passed by the Respondent herein vide Order No:ZD3307240807571 dated 05.07.2024 along with DRC-07 vide Reference No.GSTIN 33AABCS5044GIZO/2019-2020 dated 05.07.2024 and quash the same.

For Petitioner : Ms.G.Mathanghi
for Mr.S.Muthuvenkataraman

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. 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 this Writ Petition, the Petitioner has challenged the Impugned Order dated 05.07.2024 passed by the Respondent for the Tax Period 2019-2020.

4. By the Impugned Order dated 05.07.2024, a part of the demand proposed in the Show Cause Notice in GST DRC-01 dated 20.12.2023 has been confirmed and a part of the demand has been dropped.

5. Revenue Abstract in the Impugned Order reads as under:-

Description	**Amount Payable**		
	CGST (Rs.)	**SGST (Rs.)**	**IGST (Rs.)**
Difference in Turnover reported in GSTR-1 and Turnover reported in GSTR-3B	28,33,593	28,33,593	-
Interest at 18%	23,90,337	23,90,337	-
Penalty for non-filing of GSTR 9 and GSTR 9C	1,38,042	1,38,042	-
Total	53,61,972	53,61,972	

6. It appears that out of 10 defects, the demand in respect of 7 defects have been dropped while the demand in respect of 3 other defects (Defects No.3, 8 and 10) has been confirmed *vide* Impugned Order dated 05.07.2024.

7. The challenge to the Impugned Order is primarily on the ground that the Impugned Order has not substantiated the ingredients for invoking Section 74 of the respective GST Enactments against the Petitioner.

8. That apart, while imposing penalty under Section 74(9) of the respective GST Enactments, it is submitted that the Respondent has not established that the Petitioner was guilty of any of the shortcomings mentioned in Section 74(1) of the respective GST Enactments namely Fraud, Wilful-misstatement or Suppression of Facts to evade tax. Hence, prays for quashing of the Impugned Order.

9. Learned Government Advocate for the Respondent would draw attention to Reply to Defect No.3 particularly where the Respondent has admitted that in GSTR-1, the Petitioner had reported tax liability / turnover of Rs.18,77,39,829.58/- but in GSTR-3B they have restricted it to Rs.13,04,25,773.38/- and the same was not reflected in GSTR-3B.

10. The learned counsel for the Petitioner was unable to get the demand from the customers / recipients and that the Petitioner was willing to pay tax and that the Petitioner had not suppressed any fact in GSTR-1.

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

12. The facts on record reveal that an inspection was carried out by the Central Authority on 24.08.2021 and during the course of the inspection, the Petitioner discharged part of the tax liability of Rs.15,00,000/- on account of failure of the Petitioner to file the return for the period between August 2019 and March 2020.

13. Thus, as against the tax liability, the Petitioner had discharged part of the tax liability on 24.08.2021 leaving behind the balance of Rs.56,67,186/- (Rs.28,33,593/- each under the respective GST Enactments) and the same is tabulated in the Impugned Order as follows:-

Period	**SGST**	**CGST**
April 2019 to July 2019	6,45,732	6,45,732
Aug 2019 to Mar 2020	29,37,861	29,37,861
Paid via DRC-03	7,50,000	7,50,000
Total Tax Liability	**28,33,593**	**28,33,593**

14. Apart from the above, for the month of April 2019 to July 2019, the Petitioner had discharged only part of the tax liability by short

reporting the same in GSTR-3B which was also admitted by the Petitioner.

15. As against the taxable turnover of Rs.6,27,28,028.70/- declared in GSTR-1 for the aforesaid period, the Petitioner had discharged the tax liability only for Rs.4,04,33,956.20/-.

16. Thus, the Petitioner had not paid tax on the taxable turnover of Rs.2,22,94,072.51/-. On the entire turnover, the Petitioner had paid only tax amount of Rs.32,83,368/- (Rs.16,41,684/- each under the respective GST Enactments), leaving balance of Rs.12,91,464/- (Rs.6,45,732 each under the respective GST Enactments). Over and above, the Petitioner is also liable to pay interest under Section 50(1) of the respective GST Enactments.

17. It is noticed that after the 1st inspection was conducted by the Central Authority on 24.08.2021, the 2nd inspection was carried out by the State Authority on 04.10.2021 in respect of which an Inspection Report in INS-02 dated **28.02.2023** was also issued to the Petitioner followed by Intimation in GST DRC-01A dated 11.08.2023 and Detailed

Notice under Section 74 read with a summary of the Show Cause Notice in GST DRC-01 dated 20.12.2023 to which the Petitioner has replied twice on 29.06.2024 and 03.07.2024 which has now culminated in the Impugned Order.

18. Thus, it is evident that the records revealed that the Petitioner had failed to pay the tax due during the entire tax period which was also pointed out in the Inspection Report in INS-02 dated **28.02.2023** by the Central Authority in the earlier inspection conducted on 24.08.2021 pursuant to which the Petitioner had paid a sum of Rs.15,00,000/-.

19. As held by this Court in a Common Order in W.P.Nos.35967 of 2024 etc., batch in the case of **Fastenex Private Limited,** 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, it is evident that the Petitioner had suppressed the facts and had failed to discharge the tax liability and therefore the Respondent was justified in invoking the extended period of limitation.

20. Therefore, there is no merits in the challenge to the Impugned Order particularly in the light of the fact that the Show Cause Notice in GST DRC-01 and the Detailed Notice had preceded an intimation in GST DRC-01A and the Inspection Report in INS-02 which was received on **28.02.2023**.

21. It is clear that there were sufficient information available for the Respondent to come to a conclusion that tax was not paid by the Petitioner for the tax period by either suppressing the turnover in GSTR-3B for the 1st four months or not filing the returns for the subsequent period.

22. That apart, insofar as imposition of Late Fee in Defect No.10 of the Impugned Order, which has been stated to be a General Penalty is concerned, there is a mistake in the Revenue Abstract. Defect No.10 which has been discussed in the Impugned Order is extracted below:-

> "**Defect No.10. Penalty for non-filing of GSTR 9 and GSTR 9C**:
> The taxpayer has not filed annual return in GSTR 9 and GSTR 9C for the year 2019-2020. Since the taxpayer has not filed annual return in GSTR 9 though the turnover has exceeded 2

Crores, penalty of 0.25% of the total turnover has been imposed as per Section 47(2) of TNGST and CGST Acts, 2017 as below:

47. (2) Any registered person who fails to furnish the return required under Section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent of his turnover in the State.

Year	Total Turnover	Penalty @ 0.25%		
		CGST	SGST	Total
2019-2020	256323581	640809	640809	1281618

Hence the taxpayer is requested to pay the above penalty of Rs.640809/- under SGST Act and Rs.640809/- under CGST Act, 2017.

23. Though the penalty of Rs.1,38,042/- each has been imposed on the Petitioner, the Revenue Abstract has not taken note of the conclusion as far as Defect No.10. Defect No.10 though has been stated to be penalty at 0.25%, it is indeed the Late Fee payable by the Petitioner under Section 47(2) of the respective GST Enactments, for a sum of Rs.12,81,618/- (Rs.6,40,809 x 2), on account of failure of the Petitioner to file the Annual Return in GSTR-9 in time.

24. In view of the above discussion, and since the tax liability stands admitted by the Petitioner on account of difference in GSTR-1 and GSTR-3B pursuant to the inspections held on the dates mentioned above

and on account of the failure to pay tax for the subsequent period, while upholding the invocation of extended period of limitation in the Impugned Order, this case is remitted back to the Respondent to issue a corrigendum to the order by making corrections insofar as the discussions in Defect No.10 and the corresponding defects given in the Revenue Abstract. Thereafter, it is open for the Petitioner to challenge the order before the Appellate Authority in the manner known to law within a period of thirty (30) days from the date of receipt of such corrigendum order.

25. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

08.06.2026

Neutral Citation : Yes / No

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To:
Assistant Commissioner (ST),
Alandur Assessment Circle (South - III),
Room No.352,
Anna Salai,
Nandanam,
Chennai -600 035.

<u>C.SARAVANAN, J.</u>
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<u>Pre-Delivery Order in W.P.No.37279 of 2024</u>
<u>and</u>
<u>W.M.P.Nos.40299 and 40300 of 2024</u>

08.06.2026