



WEB COPY



W.P.No.10854 of 2025

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.10854 of 2025
and
W.M.P.Nos.12232 & 12236 of 2025

M/s. Zyvana Integrated Services Pvt. Ltd.,
GSTN 33AABCZ0102E1Z4
Represented by its Director J. S. Shekar,
No.1, 34th Street, 3rd Avenue,
Ashok Nagar, Chennai - 600 083.

... Petitioner

Vs.

Additional Commissioner of GST and Central Excise,
Chennai South Commissionerate
No.692, MHU Complex, Anna Salai,
Nandanam, Chennai - 600 035.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned common Order-In-Original Nos.19 to 21/2023-GST-ADC dated 31/05/2023 passed by the Respondent demanding GST for the period from July, 2017 to March, 2019 and imposing penalty under Section 74 of the GST Act, 2017 and quash that portion of the impugned order by which the Respondent has invoked Section 74 of GST Act and imposed Penalty under Section 74 of the GST Act.



WEB COPY



For Petitioner : Mr.T.Ramesh

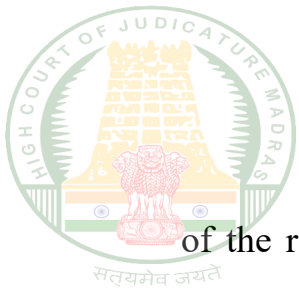
For Respondent : Mr.S.M.Deenadayalan
Senior Standing Counsel

ORDER

In this writ petition, the petitioner has challenged the Impugned Order-in-Original Nos.19 to 21/2023-GST-ADC dated 31.05.2023. By the Impugned Orders, the demands proposed in three Show Cause Notices dated 30.06.2022, 04.08.2022 and 12.12.2022 have been confirmed. Details of the demand confirmed are as under:

Sl.No.	Show Cause Notice	Issued by	Issue Involved	Period
1.	Dt. 30.06.2022 issued under Section 74	Joint Commissioner of GST and Central Excise, Chennai South Commissionerate	Difference b/w Form GSTR-1 and Form GSTR-3B	March 2018 (2017-18) April 2018 – March 2019 (2018-19)
2.	Dt. 04.08.2022 issued under Section 73	Additional Director General of Goods and Services Tax Intelligence Chennai Zonal Unit	Difference b/w Form GSTR-1 and Form GSTR-3B	April 2019 – March 2021
3.	Dt. 12.12.2022 issued under Section 73	Superintendent of Central Tax, Vadapalani IV Range	Wrong availment of ineligible ITC	July 2017- March 2018

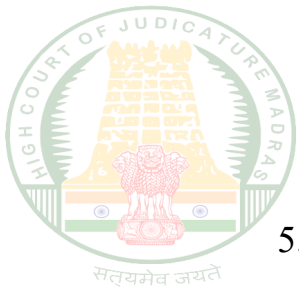
2. In this writ petition, the petitioner is aggrieved by the impugned order insofar as it confirms the imposition of 100% penalty under Section 74



of the respective GST enactment, in response to Show Cause Notice dated 30.06.2022, the demand proposed therein was confirmed by the Impugned Order-in-Original Nos.19 to 21/2023-GST-ADC dated 31.05.2023.

3. The Impugned Order-in-Original Nos.19 to 21/2023-GST-ADC dated 31.05.2023 have been passed on account of the alleged failure on the part of the petitioner to pay the tax output supply declared in GSTR-1 and on account of the petitioner's failure to file the monthly returns in GSTR-3B for the above tax period. It is submitted that the petitioner did not declare a portion of the output supply in GSTR-3B, as several customers had not paid the amounts due to the petitioner on the invoices raised for the supply made by the petitioner as a supplier. It is submitted that the petitioner had adequately declared the outward supplies in GSTR-1 and that there was no intention to evade payment of tax.

4. It is submitted that the delay in filing GSTR-3B was purely on account of difficulties faced by the petitioner and such delay cannot amount to suppression of facts to invoke the jurisdiction under Section 74 for imposing a mandatory penalty.



WEB COPY

5. Apart from this, it is submitted that as and when payments were received from customers, the petitioner discharged the corresponding tax liability, which is also not disputed.

6. In short, the learned counsel for the petitioner submits that once the tax payable towards the outward supplies were declared in GSTR-1, mere failure to make a corresponding declaration in GSTR-3B would not, by itself, amount to suppression of facts to evade tax within the meaning of Section 74 of the respective GST enactments. It is further submitted that the tax amount has already been fully paid on various dates, which has also been acknowledged in the impugned order.

7. Apart from this, the learned counsel for the petitioner further submitted that for the identical default committed by the petitioner for the succeeding period, the respondent had invoked the machinery under Section 73. Therefore, this Court may exercise its discretion under Section 75(2) by treating the proceedings under Section 73.

8. Therefore, the learned counsel for the petitioner submitted that once show cause notice has been issued in time for the succeeding period under



WEB COPY

Section 73 of the respective GST enactments, the invocation of Section 74 cannot be countenanced for the earlier period. Consequently, the proceedings under Section 79 are liable to be interfered with.

9. On the other hand, the learned Government Advocate for the respondent submits that, insofar as the imposition of penalty is concerned, paragraph 26 of the impugned order clearly justifies the same. The relevant portion of the impugned order is reproduced below:-

“ The term “ suppression” is specifically explained to mean non-declaration of facts or information which a taxable person is statutorily required to declare in the return, statement, report or any other document furnished under the Act or the rules made there under, or failure to furnish any information on being asked for, in writing, by the Proper Officer. Whenever tax is not paid or short paid or credit wrongly availed or utilized or erroneously refunded with an intent to evade tax by way of fraud, wilful misstatement, suppression of facts, the Proper Officer shall issue a notice for such amount along with interest as per Section 50 and penalty equivalent to the amount of tax specified in notice. Once it has been conclusively held that tax has not been paid with intention to evade by suppressing facts, penalty equal to tax not paid would follow as a natural corollary. The above discussions and findings prove beyond any doubt that the Taxpayer being well aware of their tax liabilities, collected rental amounts along with GST from their client but chose not to remit the same. They further did not file GST Returns in time thereby suppressing the fact of receipt of taxable income, which surfaced only owing to the investigation conducted by the department.”



WEB COPY10. It is therefore submitted that the order imposing the penalty under Section 74 of the respective GST enactments on the petitioner cannot be found fault with.

11. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

12. The invocation of machinery under Section 74 in the given facts and circumstances of the case cannot be interfered with in this proceeding, as there are no procedural irregularities committed by the respondent while passing the Impugned Order-in-Original Nos.19 to 21/2023-GST-ADC dated 31.05.2023.

13. The dispute pertains to the period between March 2018 to March 2021. The liability to pay tax under the scheme had to be paid by the due date in the following month of supply of services or, as the case may be. Having correctly declared the value of outward supply in GSTR-1, it was incumbent upon the petitioner to have paid the tax for the corresponding month or the quarter, as the case may be, in Form GSTR-3B. Therefore,



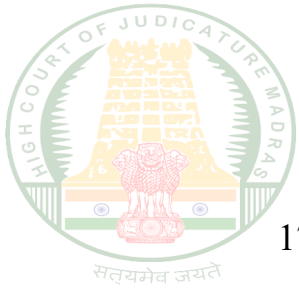
there is no reason for interfering with the impugned order.

WEB COPY

14. However, it is noticed that Section 128A has been inserted by the Finance Act No.2 of 2024, whereby amnesty has been given to registered persons against whom the machinery under Section 73 was invoked. Notifications have also been issued to implement the scheme under Section 128A of the Act. At the same time, this amnesty scheme is not available to persons against whom the machinery under Section 74 has been invoked.

15. The deliberations that preceded the incorporation of Section 128A into the Act before the GST Council seem to indicate that there were several glitches which had resulted in the non-filing of returns on time. Furthermore, amnesty has been granted in cases involving the short payment of tax compared to the admitted tax liability in GSTR-1.

16. A perusal of the deliberations of the GST Council indicates that the case of the petitioner can be examined under the purview of Section 73 of the Act. Therefore, the impugned order is quashed, and the case is remitted back to the respondent to redo the exercise afresh.



W.P.No.10854 of 2025

17. Accordingly, this Writ Petition stands partly allowed.

Consequently, connected miscellaneous petitions are closed. No costs.

08.06.2026

av/raja

Neutral Citation : Yes / No

To

The Additional Commissioner of GST and Central Excise,
Chennai South Commissionerate
No.692, MHU Complex, Anna Salai,
Nandanam, Chennai - 600 035.



WEB COPY

Case Citation: (2026) [taxcode.in](https://www.taxcode.in) 1143 HC



W.P.No.10854 of 2025



WEB COPY

Case Citation: (2026) taxcode.in 1143 HC



W.P.No.10854 of 2025

C.SARAVANAN, J.

raja

Pre-delivery Order in
W.P.No.10854 of 2025

08.06.2026