BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2026

CORAM
THE HONOURABLE MR. JUSTICE M.DHANDAPANI
and
THE HONOURABLE MR. JUSTICE N.DILIP KUMAR

W.A(MD)No.679 of 2021

1.The Managing Director,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
4th Floor, CMDA Towers,
Gandhi Irwin Bridge Road,
Egmore, Chennai.

2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Collector Office, Old Building First Floor,
Trichy-620 001.

3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
(TASMAC), SIPCOT Industrial Complex,
Pudukkottai,
Pudukkottai District-622 002. : Appellants

Vs.

K.R.Subramanian : Respondent

Prayer:This Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order dated 18.12.2020 passed in W.P.(MD).No.10355 of 2020 passed by this Court.

For Appellants : Mr.H.Arumugam

For Respondent : No Appearance

JUDGMENT

(Judgment of the Court was made by **M.DHANDAPANI.J.**)

This Intra-Court Appeal has been filed challenging the order dated 18.12.2020 passed by this Court in W.P.(MD) No.10355 of 2020.

2. The private respondent was working as a Supervisor at TASMAC Shop No.6547, Kiranur, Pudukkottai District. On account of the shortage of liquor stock found in the said shop, a penalty of Rs.1,41,435/- was imposed on the private respondent, along with GST and interest. Challenging the same, the private respondent filed W.P.(MD) No.10355 of 2020 before this Court. The learned Single Judge, by order dated 18.12.2020, allowed the writ petition and directed the appellants to conduct a de novo enquiry in respect of the collection of GST on the penalty imposed on the private respondent. Aggrieved by the said order, the present Intra-Court Appeal has been filed.

3. The learned counsel appearing for the appellants would submit that the private respondent was working as a Supervisor at TASMAC Shop No.6547, Kiranur, Pudukkottai District. On 24.03.2020, the Government of India announced a nationwide lockdown with effect from 6.00 p.m. on account of the spread of the novel coronavirus. The private respondent

received instructions from the District Manager to close the shop at 6.00 p.m. Normally, the shop would be closed at the prescribed closing time, and thereafter, the Supervisor would take some time to complete the closing formalities, including verification of the stock available, preparation of the day's accounts and remittance of the sale proceeds on the next working day. It is further submitted that, due to the sudden lockdown announced on 24.03.2020, the private respondent was compelled to close the shop at 6.00 p.m. and was unable to complete the closing formalities in the usual manner. It is stated that the day's accounts could not be closed and the total sale amount could not be verified and intimated to the concerned District Manager through SMS. Therefore, the private respondent kept the sale proceeds received between 4.00 p.m. and 6.00 p.m. in the locker available in the shop. Subsequently, an inspection was conducted and a shortage of stock was found. A show-cause notice was therefore issued to the private respondent as to why a penalty of Rs. 1,41,435/- should not be imposed along with interest and GST in respect of the shortage of stock, in accordance with the applicable provisions relating to prevention and detection of fraudulent acts in TASMAC. Thereafter, an order dated 28.07.2020 was passed imposing the penalty along with GST. Challenging the same, the private respondent approached this Court by filing the aforesaid writ petition.

4. The learned counsel appearing for the appellants would further submit that, though the private respondent had paid the entire amount, including GST, the learned Single Judge had set aside the collection of GST along with the penalty amount and directed a de novo enquiry in that regard. According to the learned counsel, such a direction is not sustainable, since Section 7 of the Central Goods and Services Tax Act, 2017, read with the relevant provisions of Schedule II, enables the appellants to collect GST along with the penalty imposed on the employee.

5. This Court posed a specific question to the learned counsel appearing for the appellants as to whether the provisions of the GST Act authorise the appellants to collect GST on the penalty imposed upon the employee for the shortage of stock.

6. The learned counsel appearing for the appellants placed reliance upon Section 7 of the Central Goods and Services Tax Act, 2017, read with paragraph 5(e) of Schedule II, which deals with agreeing to the obligation to refrain from an act, or to tolerate an act or situation, or to do an act.

7. We have carefully considered the said provision. Paragraph 5(e) of Schedule II contemplates an agreement involving an obligation to refrain from an act, to tolerate an act or situation, or to do an act. The

provision has to be understood in the context of a supply of services. In the present case, the penalty imposed upon the private respondent is in respect of an alleged shortage of stock while discharging his duties as an employee of the appellant. The relationship between the appellant and the private respondent is one of employer and employee and not one of supplier and recipient of goods or services.

8. Therefore, the imposition of penalty upon the private respondent for the alleged shortage of stock cannot, by itself, be construed as a supply of service so as to attract the provisions of Section 7 of the Central Goods and Services Tax Act, 2017, read with paragraph 5(e) of Schedule II. The said provision cannot be invoked merely for the purpose of collecting GST on the penalty imposed upon an employee in the course of an employer-employee relationship.

9. In such circumstances, we do not find any error or infirmity in the order passed by the learned Single Judge warranting interference by this Court in the present Intra-Court Appeal.

10. Accordingly, this Intra-Court Appeal is dismissed. There shall be no order as to costs.

[M.D.I.,J] [N.D.K.,J]
14.08.2026

Index:Yes/No
Internet:Yes/No
TSG

M.DHANDAPANI, J

AND

N.DILIP KUMAR, J

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