Case Citation: (2026) taxcode.in 1627 HC

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.09.2026**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

WP(MD) NO. 27719 of 2026
{CNR: HCMD011374082026}
Case QR

and

W.M.P.(MD) No.21031 of 2026

The Managing Director,
M/s.Queen Mira International School
Melakkal Road
Kochadai
Maldurai - 625019

Petitioner(s)

Vs

1.Union of India,
Rep by its Secretary
Department of Revenue
Ministry of Finance
Government of India
North Block
New Delhi - 110 001

2.The State of Tamil Nadu
Rep. by its Secretary
Ministry of Finance
Department of Revenue
Fort St.George

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Chennai 600 009

3.The Commissioner
GST Central Excise (HPU)
Madurai Commissionerate
Madurai

4.The Assistant Commissioner
GST and Central Excise (HPU)
Madurai I Division
Madruai - 625002

5.The Superintendent
Goods and Services Tax and Central Excise
No.04
Lal Bahadur Shastri Road
CR Buildings
B.B.Kulam
Madurai - 625002

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records relating to the impugned Notice issued by the 5th respondent in OC No.367/2026 dated 27.08.2026, Quash the Same as illegal.

For petitioner : Mr. Isaac Mohanlal
Senior Counsel
For M/s.Isaac Chambers
For R1 : Mr.C.Rajagopal
Senior Panel Counsel
For R2 : Mr.R.Parthiban
Special Government Pleader

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For R3 to R5 : Mr.R.Gowrishankar
Senior Standing Counsel

*****

ORDER

Mr.C.Rajagopal, learned Senior Panel Counsel, takes notice for the first respondent. Mr.R.Parthiban, learned Special Government Pleader, takes notice for the second respondent. Mr.R.Gowrishankar, learned Senior Standing Counsel, takes notice for the respondents 3 to 5.

2. This Writ Petition is taken up for final hearing at the time of admission with the consent of the learned counsel for the petitioner, learned Senior Panel Counsel for the first respondent, learned Special Government Pleader for the second respondent and learned Senior Standing Counsel for the respondents 3 to 5.

3. The petitioner is before this Court against the impugned Show Cause Notice dated 27.08.2026 bearing reference in No.06/2026-27-GST/SUP/WEST RANGE of the fifth respondent, whereby a proposal has been made to recover tax under Section 74 of the respective GST enactment.

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4. The petitioner appears to be an educational institution. According to the learned Senior Counsel for the petitioner, the petitioner is exempt from payment of tax under the respective GST enactment in terms of Serial No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended by Notification No. 2/2018-Central Tax (Rate) dated 25.01.2018.

5. It is submitted that there are no foundational facts for issuance of a notice to the petitioner, as the petitioner is admittedly exempt from payment of tax. The impugned Show Cause Notice has been issued under Section 74 of the respective GST enactments and is predicated on the underlying fact that the petitioner has not registered with the Tax Department under the provisions of the respective GST enactment and consequently, has also not paid the tax due on the services provided by the petitioner.

6. Whether, indeed, the petitioner is entitled to the exemption or not is an issue which has to be adjudicated by the Authorities under the provisions of the respective GST enactment. There is however a departure under the provisions of

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the respective GST enactment, as compared to the provisions of the Central Excise Act, 1944, the Finance Act, 1994 and various VAT enactments of various States. Under the GST enactment, the Department has to first invoke the machinery under Section 63 in the case of an unregistered person like the petitioner.

7. Section 63 of the respective GST enactment reads as under:

> ***"63. Assessment of unregistered persons.-***
>
> *Notwithstanding anything to the contrary contained in section 73 or section 74 or section 74A, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:*
>
> *Provided that no such assessment order shall be passed without giving the person an opportunity of being heard."*

8. The proper officer has to thus proceed to assess the tax liability of the person liable to pay tax to the best of his judgment for the relevant tax period and

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issue an assessment order within a period of five years from the date specified under Section 44 for furnishing the annual return for the financial year to which the tax not paid relates to.

9. Section 63 also contemplates issuance of a notice before passing a final order under Section 63. This view is also fortified by a recent decision of this Court in ***MRF Limited v. Additional Director DGGI Delhi Zonal Unit and another*** reported in ***(2026) 155 GSTR 91.***

10. In view of the above, the impugned Show Cause Notice is quashed, by granting liberty to the fifth respondent to issue Notice in ASMT-14 under Section 63 of the respective GST enactment. It is open for the petitioner to raise all contentions that are available to the petitioner, including the claim of exemption under the above-mentioned notification.

11. This Writ Petition is disposed of, with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

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Internet : Yes / No
apd

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C.SARAVANAN, J.

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