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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18-09-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

WA(MD) Nos. 1466 to 1469 of 2026

CNR:{HCMD011280492026}

and

CMP(MD) Nos. 12682, 12687, 12684 and 12686 of 2026

WA(MD) No. 1466 of 2026:

CNR:{HCMD011280492026}

Case QR

Manickavel Edible Oils Private Limited,
123-A, Katchery Road,
Virudhunagar - 626 001.

..Appellant/Petitioner

Vs

State Tax Officer (Review),
Office of Joint Commissioner (State Tax)
(Intelligence),
Commercial Taxes Building,
Madurai Main Road,
Virudhunagar - 626 001.

..Respondent/Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters patent against the order dated 20.07.2026 passed in W.P.(MD).No.20511 of 2026 on the file of this Court.

WA(MD) No. 1467 of 2026:

CNR:{HCMD011280502026}

Case QR

Manickavel Edible Oils Private Limited,
123-A, Katchery Road,
Virudhunagar - 626 001.

..Petitioner(s)

Vs

State Tax Officer (Review)
Office of Joint Commissioner (State Tax)
(Intelligence),
Commercial Taxes Building,

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Madurai Main Road,
Virudhunagar - 626 001.

..Respondent(s)

PRAYER: Writ Appeal filed under Clause 15 of Letters patent against the order dated 20.07.2026 passed in W.P.(MD).No.20512 of 2026 on the file of this Court.

WA(MD) No. 1468 of 2026:
CNR:{HCMD011280512026}

Case QR

Manickavel Edible Oils Private Limited
123-A, Katchery Road,
Virudhunagar -626 001.

..Petitioner(s)

Vs

State Tax officer (Review)
Office of Joint Commissioner (State Tax)
(Intelligence),
Commercial Taxes Building,
Madurai Main Road,
Virudhunagar -626 001.

..Respondent(s)

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 20.07.2026 passed in W.P.(MD) No. 20513 of 2026 on the file of this Court.

WA(MD) No. 1469 of 2026:
CNR:{HCMD011280522026}

Case QR

Manickavel Edible Oils Private Limited
123-A, Katchery Road,
Virudhunagar -626 001.

..Petitioner(s)

Vs

State Tax officer (Review)
Office of Joint Commissioner (State Tax)
(Intelligence),
Commercial Taxes Building,

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Madurai Main Road,
Virudhunagar -626 001.

..Respondent(s)

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 20.07.2026 passed in W.P.(MD) No. 20514 of 2026 on the file of this Court.

In all cases:

For Appellant(s): Mr.T.Mohan
Senior Counsel
assisted by
Mr.J. Adithya Reddy

For Respondent(s): Mr.M.P.Senthil
Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

These writ appeals have been filed against the common order of the learned Single Judge in a batch of writ petitions in W.P.(MD) Nos.20511 to 20514 of 2026, dated 20.07.2026.

2. By the common order, the learned Single Judge had directed the appellant herein to file a reply to their respective show cause notices by substantiating their defence with necessary documents within a period of 30 days from the date of receipt of that particular common order of the learned Single Judge. It was further directed that if the appellant complies with the said

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stipulation, the respondent shall proceed to pass an order in an ordinary manner without any revenue bias.

3. Since the issue raised in all the writ appeals are common, we would also pass a common judgment in all the four writ appeals.

4. The writ petitions had been filed by the appellant herein challenging separate show cause notices issued for the tax period from Financial Year 2022-2023 to Financial Year 2025-2026 pursuant to an inspection held under Section 67 of the respective GST enactment.

5. It had been argued before the learned Single Judge and again before us that the foundational facts available for issuance of notice under Section 74 of the GST enactment had not been stated in the show cause notices. It had also been contended that the appellant had cooperated during the investigation under Section 67 of the respective GST enactment by furnishing all the documents with a detailed reply, but that, that detailed reply and documents have not been considered or rather had been ignored and the impugned show cause notices had been issued.

6. We had examined the order of the learned Single Judge. The learned Single Judge had been extremely careful in the order passed by avoiding any

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reference to the facts of the case, but the only observation was that since the writ appellant had only been visited with show cause notices, granted liberty to give reply along with documents and had also stipulated that the respondent shall proceed in an impartial manner without revenue bias. The same arguments had again been advanced before us.

7. The learned Senior Counsel placed reliance on a judgment of the Hon'ble Supreme Court in the case of ***M/s Tata Steel Limited vs. Union of India through the Secretary, Ministry of Finance and Ors.*** in ***SLP(C) No.16859 of 2026*** rendered on 25.08.2026. Specific reference was placed to the observations of the Hon'ble Supreme Court in paragraph 14 of the said order, which is as follows:

> *"14. It is not mere lip service to the provisions that is intended when an extended limitation period is provided for recovering an excess benefit availed, short payment or excess refund, from the assessee, especially when the allegation is of fraud/willful misrepresentation/suppression. The foundational facts which led to the inference arrived at of fraud/willful misrepresentation/suppression should be evident from the notice itself. The mere employment of such words will not indicate an application of mind, upon which alone the satisfaction can be arrived at. The words are not to be mechanically recited in the notice to enable recovery outside the normal limitation provided under the statute."*

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8. That particular case concerns the issuance of show cause notices for three financial years 2018-2019 to 2020-2021 consequent to an objection raised on an order passed by the office of the Comptroller and Auditor General of India. It was termed to be show cause notice under Section 74 of the Central Goods and Services Tax Act, 2017. It was the contention of the appellant before the Hon'ble Supreme Court that there was no allegation of fraud or wilful misstatement or suppression of facts and if there are no such allegations, Section 74 cannot be invoked. Arguments were advanced on those grounds primarily stating that there was no suppression of facts, that there were no allegations of fraud or that there were no misrepresentation of facts.

9. In the instant case, while issuing the show cause notices on various grounds, reply of the appellant had been considered favourably on practically every issue except one. The one issue in which tax had been determined and notice under Section 74 had been issued was determination of difference between the amount credited in the bank statement and GSTR 9 turnover, which was a sum of Rs.13,33,78,38,091/-. The turnover disclosed as per GSTR-9, was Rs.6,82,40,71,382/-. The tax paid was Rs.34,62,46,361/-. The turnover on the tax paid came to Rs.7,17,03,17,743/-. The difference was therefore determined at Rs.6,16,75,20,348/-. This defect was pointed out. The appellant herein had submitted a reply on 03.11.2025. The reply had been extracted and even the precedent cited by the appellant had also been extracted and thereafter, the Bank

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statement reconciliation as projected by the appellant and the turnover plus tax reconciliation as projected by the appellant had also been extracted. On the basis of such reply, the officer had rendered his finding.

10. At this stage, it may not be proper on our part to examine the same, but it would be suffice to point out that the officer in his findings on examination of the reply by the appellant herein had stated that necessary records as required under Section 35 of the CGST Act, 2017 read with Rule 56 of the CGST Rules, 2017 had not been produced which effectively meant that an opportunity should be granted to the appellant to produce those records. That liberty was granted and the appellant herein again gave a reply to the DRC-01 notice and the reply again had been extracted in detail in the show cause notices impugned before the learned Single Judge. The Bank statement reconciliation, the ledger copy for each of the financial years had also been provided and had been examined. On the basis of this particular reply, the proper officer then gave his findings. He then examined the difference between amount as credited in the bank statement and as projected in GSTR-9. He had again listed out in a tabular column the difference between the two statements. He had also examined the service tax refund which was projected, the cheque return amount, which was also projected, the Fixed Deposit closure and transferred to current account from cash credit account and the Fixed Deposit closure and interest. The transfer to current account and cash credit account and

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all other aspects had been listed out, quantified and examined by the Officer. The documents had also been verified. It was held that these transactions were merely transfers of funds between tax payer's bank accounts maintained with the same bank. Therefore, it was a specific finding rendered that the appellant had been transferring amounts from one account to the other account within the same bank. It was therefore held that these transactions, which were only transfers did not represent consideration received during any out side supply and were merely internal fund transfers. It was also found that to treat the account as suppressed turnover, the amount credited in the bank account exceed turnover reported in GSTR-3B. Thereafter, the amount was again re-worked by the proper officer and finally the tax due, which was proposed was quantified at Rs.11,60,81,806/-.

11. We are only stating the findings to show that there had been consideration of the replies given by the appellant herein and it is not just a cursory show cause notices issued. We again reiterate that it was only show cause notices and the learned Single Judge actually given opportunity to the appellant to file reply to the show cause notices and also granted permission to produce further records as are required.

12. The learned Senior Counsel pointed out that additional reply had been given for the assessment years 2022-2023, 2023-2024 and 2024-2025, on

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25.06.2026. It had been stated that these additional replies had not been examined by the officer concerned. A cursory reading of the affidavit filed in support of the writ petitions do not reveal that this particular ground of non-consideration of the additional reply dated 25.06.2026 had been taken before the learned Single Judge. In fact, it had not been taken.

13. It is trite in law to point out that if a fresh ground is urged before this Court, then an explanation should be given as to why the particular document was not pressed into service before the learned Single Judge. The learned Single Judge had actually been extremely considerate and we are confident that had they been disclosed, he would also have directed the officer to consider the additional reply. The learned Senior Counsel then stated that the show cause notices practically have called upon the appellant to pay the amount crystallised and stated that if the same is not paid within thirty days, then further orders under Section 74(1) shall be issued. Section 74(1) is as follows:

> ***"Section 74. Determination of tax[, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful- misstatement or suppression of facts.-****(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the*

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person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the

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proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 *and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.*

(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

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(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

[(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.]

***Explanation 1**.- For the purposes of section 73 and this section,-*

(i) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;

(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under 1[sections 122 and 125] are deemed to be concluded."

14. The very provision states that the notice shall be served relating to the tax which had not been paid or which had been sought to be paid or to whom a refund has been erroneously made or who has wrongly availed or utilised input tax credit calling upon the assessee.

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15. We would again reiterate that the learned Single Judge had been extremely considerate and granted time to give reply to the show cause notices issued. We find no infirmity in the directions of the learned Single Judge. The Writ Appeals stand dismissed confirming the order of the learned Single Judge. We would again issue the same direction as the learned Single Judge had done namely that the appellant herein, if he is so advised, may reply to the respective show cause notices by substantiating the defence with necessary documents within a period of thirty days from the date of receipt of a copy of this common judgment. We would also reiterate that if the appellant complies with the said direction, the respondent shall proceed to pass an order in an impartial manner without any revenue bias. No costs. Consequently, connected miscellaneous petitions are closed.

(C.V.K., J.) (R.S.V., J.)
18-09-2026

Index: Yes
Speaking Order
Neutral Citation: Yes

ABR

To

State Tax Officer (Review)
Office of Joint Commissioner (State Tax) (Intelligence),
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C.V.KARTHIKEYAN, J.
AND
R.SAKTHIVEL, J.
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