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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-09-2026

CORAM

**THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

**W.P.No.8279 of 2024**
**and W.M.P.Nos.9232 & 9236 of 2024**

*CNR: {HCMA010577942024}*

Case QR

M/s.P.R Mani Electronics,
No.32, Sannathi Street,
Thiruvannamalai,
Tamil Nadu - 606 601.

..Petitioner(s)

Vs

The Assistant Commissioner (ST),
O/o The Assistant Commissioner
Thiruvannamalai -I Assessment Circle,
1st Floor, Integrated Commercial Taxes Building,
Collectorate Master Complex,
Vengikkal, Thiruvannamalai - 606 604.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the Respondent in Proceedings dated 31.12.2023 in GSTIN 33AABPR2458L1ZJ/2017-18 and to quash the same as arbitrary unjust, illegal, ultravires and contrary to the principles of natural justice.

For Petitioner(s): Mr.N.Murali Kumaran, Senior Counsel for M/s.Mcgan Law Firm

For Respondent(s): Mr.I.Dinesh, Additional Government Pleader (Taxes)



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**ORDER**

The present writ petition has been filed challenging the order dated 31.12.2023 passed by the respondent.

2.The petitioner concern was established in the year 2007 and is engaged in the business of trading in electronic goods. The petitioner is registered with the respondent under GSTIN: 33AABPR2458LIZJ.

2.1.According to the petitioner, during the financial year 2016–2017, it became a distributor of Vivo smartphone products and was appointed as an authorised distributor for the districts of Tiruvannamalai, Kancheepuram and Tirupattur. The respondent issued a notice by e-mail dated 24.11.2021, followed by a reminder dated 06.01.2022. Thereafter, another notice was issued by the respondent on 22.04.2022, to which the petitioner submitted replies dated 28.04.2022 and 29.04.2022, along with the requisite enclosures, through its registered e-mail ID. However, no orders were passed pursuant to the said replies.

2.2.On 27.04.2023, the petitioner received notices in Form GST ASMT-10 in respect of the financial years 2017–2018, 2018–2019, 2019–2020, 2020–2021 and 2021–2022. The petitioner submitted its reply in respect of the


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financial year 2017–2018 on 25.05.2023 and uploaded the same on the GST portal on 26.05.2023. However, when the petitioner attempted to upload its replies for the financial years 2018–2019, 2019–2020, 2020–2021 and 2021–2022 through the GST portal, the same could not be uploaded, as the portal displayed an error message stating that the reply could not be submitted after the expiry of the due date.

2.3.It is the specific case of the petitioner that replies in respect of all the aforesaid financial years, namely, 2017–2018 to 2021–2022, were submitted in person before the respondent on 07.06.2023. Thereafter, the petitioner submitted a representation dated 04.09.2023, requesting the respondent to afford an opportunity of personal hearing. However, without affording the petitioner an opportunity of personal hearing, the respondent proceeded to pass the impugned order dated 31.12.2023.

3.Mr.N.Murali Kumaran, learned Senior Counsel appearing for the pettioner, raised four principal grounds challenging the impugned order. Firstly, he submitted that proceedings had already been initiated by the Central Goods and Services Tax authorities against the petitioner and, therefore, in view of the statutory bar contemplated under Section 6(2)(b) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), the respondent lacked jurisdiction to initiate parallel proceedings. Secondly, the


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learned Senior Counsel submitted that, when scrutiny proceedings were initiated under Section 61 of the Act, the respondent ought to have called upon the petitioner to furnish an explanation in respect of the discrepancies noticed. He further contended that the respondent could not have proceeded ex parte under Section 62 of the Act without issuing the requisite notice and following the procedure prescribed under law. Thirdly, the learned Senior Counsel contended that the show cause notice issued under Section 73(1) of the Act was not in conformity with the requirement contemplated under Section 73(2) of the Act, inasmuch as the prescribed period of three months prior to the passing of the impugned order had not been duly complied with. Fourthly, he submitted that the impugned order was barred by limitation. According to him, the relevant returns were required to be furnished on or before 31.12.2018 and, consequently, the period of limitation of three years expired on 31.12.2021. However, the impugned order came to be passed only on 31.12.2023 and was, therefore, liable to be set aside as being barred by limitation.

3.1.Learned Senior Counsel further submitted that, in terms of Section 75(4) of the CGST Act, the respondent was statutorily bound to afford the petitioner an opportunity of personal hearing before passing an adverse order. He contended that the failure to grant such an opportunity, despite the petitioner's specific request dated 04.09.2023, amounted to a violation of the principles of natural justice and rendered the impugned order unsustainable in


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law. In support of his submissions, learned Senior Counsel also pointed out that, pursuant to the impugned proceedings, the respondent had attached a sum of Rs.2,84,324/-. In this regard, the petitioner filed an affidavit dated 26.08.2023, wherein, in paragraph 5, it was stated as follows:

> *"5.I respectfully submit that In the meantime the Department has frozen my all 4 bank accounts in no.10860297305, 9414676351, 9414491602, 9614738415 and appropriated a sum of Rs.2,84,324/- (Rupees: Two Lakhs Eighty Four Thousand Three Hundred and Twenty Four Rupees only)."*

3.2.According to the petitioner, a sum of Rs.2,84,324/- has been appropriated by the respondent pursuant to the impugned order.

4.Per contra, the learned Additional Government Pleader appearing for the respondent submitted that the issue relating to the applicability of Section 6(2)(b) of the CGST Act is pending consideration before the Hon'ble Division Bench. With regard to the requirement of issuing a show cause notice at least three months prior to the expiry of the time limit for passing an order under Section 73(10) of the Act, as contemplated under Section 73(2), the learned Additional Government Pleader submitted that the relevant period has to be computed with reference to the statutory provisions governing the time limit for furnishing the annual returns.


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4.1.With regard to the contention that the impugned proceedings are barred by limitation, the learned Additional Government Pleader submitted that the limitation period stood extended in view of the orders passed by the Hon'ble Supreme Court in relation to the COVID-19 pandemic. In this regard, he placed reliance on the judgment of the Hon'ble Supreme Court dated 10.03.2022 in In Re: Cognizance for Extension of Limitation.

> *"In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply."*

4.2.Learned Additional Government Pleader further submitted that the Hon'ble Supreme Court, by its orders in In Re: Cognizance for Extension of Limitation, had excluded the period from 23.03.2020 to 28.02.2022 for the purpose of computation of limitation. Therefore, according to the learned Additional Government Pleader, the benefit of the aforesaid exclusion would have to be taken into account while computing the period of limitation, and the petitioner could not contend that the impugned proceedings were barred by limitation.


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5.With regard to the specific contention raised by the petitioner under Section 75(4) of the CGST Act, it is seen that, in the impugned order dated 31.12.2023, the respondent has merely stated that the reply submitted by the taxable person had been carefully considered. However, there is no reference in the impugned order to any opportunity of personal hearing having been afforded to the petitioner, notwithstanding the statutory requirement under Section 75(4) of the Act.

6.Learned Senior Counsel appearing for the petitioner relied upon a catena of judgments rendered by various High Courts, wherein it has been consistently held that an opportunity of personal hearing is required to be afforded in the circumstances contemplated under Section 75(4) of the Act, irrespective of whether such an opportunity has been specifically sought by the assessee. Having regard to the submissions made on either side, this Court is of the view that the requirement of affording an opportunity of personal hearing assumes significance, particularly when an adverse order is proposed to be passed against the assessee. In the present case, the petitioner was not afforded an opportunity of personal hearing before the impugned order came to be passed. Consequently, the petitioner was deprived of an effective opportunity to put forth its case before the respondent. The impugned order, therefore, cannot be sustained on this ground.


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7.In view of the above discussion, the impugned order dated 31.12.2023 is set aside. However, all the contentions raised by the petitioner are left open to be urged before the respondent. The matter is remitted to the respondent for fresh consideration. The respondent shall afford the petitioner an opportunity of personal hearing and grant sufficient time to the petitioner to furnish the relevant documents and supporting materials in support of its case. Thereafter, the respondent shall consider the petitioner's submissions, in accordance with law, and pass appropriate orders on merits, within a period of twelve weeks from the date of receipt of a copy of this order.

8.With the above directions, this writ petition is disposed of. There shall be no order as to costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

22-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The Assistant Commissioner (ST),
O/o The Assistant Commissioner
Thiruvannamalai -I Assessment Circle,
1st Floor, Integrated Commercial Taxes Building, Collectorate Master Complex,
Vengikkal, Thiruvannamalai - 606 604.


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**N.SENTHILKUMAR, J.**

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