

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2026

CORAM:

THE HONOURABLE **MR.JUSTICE N.SATHISH KUMAR**  
AND  
THE HONOURABLE **MR.JUSTICE M.JOTHIRAMAN**

WA.(MD)Nos.484 to 488 of 2026  
and  
CMP.(MD)Nos.4347 to 4350 & 4352 of 2026

Tvl.Dr.M.Sundaram Hospital Private Limited,  
Rep.by its Director Dr.Vivek,  
No.17/102, EVR Road, Puthur,  
Trichy-620 017.

...Appellant in all W.As.

Vs.

The State Tax Officer-II (RS)/  
The Commercial Tax Officer,  
Intelligence Wing,  
Trichy.

...Respondent in all W.As.

COMMON PRAYER:- Writ Appeals filed under Clause 15 of the Letter Patent, as against the order passed in WP.(MD)Nos.5582, 5583, 5584, 5585, 5586 of 2026 dated 27.02.2026.

For Appellant : Mr.Raja.Karthikeyan  
(in all W.As.)  
For Respondent : Mr.R.Suresh Kumar,  
(in all W.As.) Additional Government Pleader



**COMMON JUDGMENT**

WEB COPY (Common Judgment of the Court was made by **M.JOTHIRAMAN, J.**)

Under assail is the order passed in WP.(MD)Nos.5582 to 5586 of 2026 dated 27.02.2026.

2.The appellant/writ petitioner has challenged the assessment order passed by the respondent dated 17.11.2025 and 01.12.2025. The impugned orders were challenged on the ground of classification and jurisdiction. It is the case of the writ petitioner that the respondent had conducted inspection on the place of business, on 13.08.2024. Based on such inspection, the respondent had issued show cause notice and passed impugned orders for the assessment year 2020-21, on 17.11.2025 and on 01.12.2025. The writ petitioner, a private hospital, is providing health care service and running a retail medical shop in the hospital premises. The writ petitioner has registration and administrative control of Central GST Authorities and the State authority is having jurisdiction to assess the registration holders of the Central GST authority as per Section 6 of Central Goods and Service Act[hereinafter referred as 'the CGST Act']. There is no mis-statements and fraudulent intention existed. Hence,



WEB COPY

assessment deemed to have made only under Section 73 of the Act. But, the Assessing Officer made assessment on the Head of Section 74 of the Act, which is not correct and liable to set aside. The learned Writ Court while dismissing the writ petitions, granted liberty to the writ petitioner to file an appeal before the appellant authority and also directed the appellate authority to take independent decision, after hearing the parties and also given liberty to the writ petitioner to raise of jurisdiction before the authorities concerned. Aggrieved over the same, the writ petitioner has preferred the present writ appeals.

3.The learned counsel appearing for the appellant would submit that the appellant has collected tax for exempted commodity, ie., supply of medicine to the inpatients of the hospital and claimed Input Tax Credit. Thereby, adjusted the Input Tax Credit for the tax liability of the hospital. Hence, the impugned assessment order is against the provision of law. The learned Writ Court directed to prefer appeal without deciding the merits of the matter and questions of law raised, which is unsustainable in law. The question of law in connection with Cross Empowerment under Section 6(1) of the CGST Act and the respondent is having jurisdiction to make assessment is not decided by the learned Writ



WEB COPY

Court and also not decided the issue with regard to the invoking of Section 74 of the CGST Act in the impugned assessment proceedings for absence of *Mens rea* -intention to evade tax.

4.Per contra, the learned Additional Government Pleader appearing for the respondent would submit that the writ petitioner has been registered under Central authorities, insofar as enforcement action is concerned, both under the GST regime, both Central and State has power to take enforcement action. In view of the same, the State authorities have initiated the enforcement action and passed orders. If at all any wrong conclusion on the aspect of suppression is arrived at so as to invoke Section 74, the petitioner is supposed to approach the appellate authority.

5.We have considered the submissions made on either side and perused the records carefully.

6.Originally, the appellant/writ petitioner has challenged the impugned assessment orders on the ground of classification and jurisdiction. On the ground of classification i.e., as per cross enforcement



WEB COPY

is concerned, in the instant case, initially, the writ petitioner was registered under the Central Excise Regime and therefore, it comes under the Central authorities, however, the State authorities have initiated the enforcement.

7. At this juncture, it is relevant to refer Section 74(1) of the CGST Act, which reads as under:-

*74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any wilful-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 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*



WEB COPY



*thereon under section 50 and a penalty equivalent to the tax specified in the notice.*

8.As far as the classification is concerned, there are disputed questions of facts involved, the issue pertaining to classification cannot be adjudicated under Writ Jurisdiction. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court reported in 2025 SCC Online SC 1700, in Armour Security (India) Ltd., v. Commissioner, CST, Delhi East Commissionerate and another, wherein it has been held that intelligence based enforcement action can be initiated by any one of the Central or the State Tax administrations despite the taxpayer having been assigned to the other administration. By applying the ratio laid down in the above decision, the learned Writ Court held that there is no error in initiating action on the part of the State and they are well within the jurisdiction to initiate such action. The contention of the appellant with regard to the proceedings issued under Section 74 of the CGST Act and penalty was levied and in this regard the appellant has submitted a reply. In case, without properly considering the reply, if any order is passed, the remedy available to the appellant is to file an appeal and agitate the same in the manner known to law.



WEB COPY

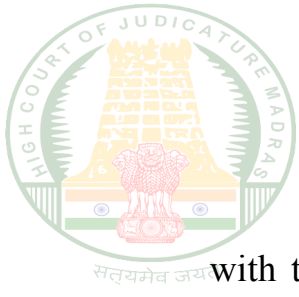
9. At this juncture, it is relevant to refer Section 107(1) & (16) of the CGST Act, which reads as under:-

*107. Appeals to Appellate Authority-*

*(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.*

*(16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.*

10. It is pertinent to mention that the authorities have arrived at a conclusion as suppression. Therefore, if at all any wrong conclusion on the aspect of suppression is arrived at so as to invoke Section 74, the petitioner is supposed to approach the appellate authority. The appellant challenged the impugned order in the writ petition on the ground of classification and jurisdiction and the learned Writ Court has rightly dealt



WEB COPY

with the issues raised by the appellant and granted liberty to prefer an appeal before the appellate authority under Section 107 of Central Goods and Services Act and also given liberty to the appellant to raise the issue of jurisdiction before the appellate authority. Therefore, we are of the view that there is no infirmity in the order of the learned Writ Court. It is for the appellant to raise all the grounds before the appellate authority in the manner known to law. There is no merits in the writ appeals and the same are liable to be dismissed.

11. In the result, the writ appeals are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[N.S.K., J.] & [M.J.R., J.]  
02.04.2026

Index : Yes/No  
Internet : Yes  
GNS

To  
The State Tax Officer-II (RS)/  
The Commercial Tax Officer,  
Intelligence Wing,  
Trichy.



WEB COPY

Case Citation: (2026) taxcode.in 996 HC



**N.SATHISH KUMAR, J.**  
**AND**  
**M.JOTHIRAMAN, J.**

GNS

WA.(MD)Nos.484 to 488 of 2026

02.04.2026