IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-07-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP Nos. 25946 & 25947 of 2026
and W.M.P.Nos.28329, 28331, 28332 & 28333 of 2026

Raj Machine Tools
Rep. by its Proprietor Yuvaraj, No. 2/91, C.T.H.
Road, Kakkalur, Tiruvallur - 602003.

..Petitioner(s) in both WP's

Vs

The Assistant Commissioner (st) (fac)
Tiruvallur Assessment Circle,
No.4/109, bangalore highway, nazarathpet,
chennai - 600123.

..Respondent(s) in both WP's

PRAYER in W.P.No.25946 of 2026: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned assessment order passed by the Respondent in Form GST DRC-07 vide Reference No.ZD331125236422V / FY 2021-2022, dated 13.11.2025, under Section 73 of the CGST/TNGST Act, 2017, and quash the same and consequently direct the Respondent to reconsider the matter afresh, after affording a fair and reasonable opportunity of hearing to the Petitioner and permitting the Petitioner to submit all relevant supporting documents.

PRAYER in W.P.No.25947 of 2026: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned assessment order passed by the Respondent in Form GST DRC-07 vide Reference No.ZD3311252349885 / FY 2021-2022, dated 13.11.2025, under Section 73 of the CGST/TNGST Act, 2017, and quash the same and consequently direct the Respondent to reconsider the matter afresh, after affording a fair and reasonable opportunity of hearing to the Petitioner and permitting the Petitioner to submit all relevant supporting documents.

For Petitioner(s): in both WP's	Mr.S.Satheesh Kumar for Mr.Suresh T
For Respondent(s): in both WP's	Ms.Amirta Poonkodi Dinakaran, Government Counsel (Tax)

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COMMON ORDER

In these two writ petitions, two separate orders pertaining to the same assessment period are assailed on multiple grounds.

2. The first contention of learned counsel for the petitioner is that the orders are in contravention of Section 73(2) of applicable GST enactments. He contends that the said provision mandates a minimum time gap of three months between the show cause notice and the assessment order. In support of this contention, he relies on the judgment of the *Bombay High Court in AM Market Places Private Limited v. The Union of India, W.P.No.7941 of 2025, order dated 17.01.2026*. In particular, he relies on the reasoning at paragraphs 4 and 5 of the said order. His second contention is that the two orders are contradictory. He points out that impugned order dated 13.11.2025 in W.P.No.25946 of 2026 proceeds on the basis that the petitioner had wrongly availed of input tax credit in respect of exempt supplies. On the contrary, the order dated 13.11.2025 in W.P.No.25947 of 2026 proceeds on the basis that the supplies are taxable and not exempt. Without prejudice to these contentions, learned counsel submits that the petitioner agrees to remit 25% of the tax demand under the order challenged in W.P.No.25946 of 2026 as a condition for remand of both matters. He has made an endorsement to that effect on the bundle. He adds that some recoveries were made earlier and that the remittance would be made after adjustment thereof.

3. Ms.Amirta Poonkodi Dinakaran, learned Government Counsel (Tax), accepts notice for the respondent. She contends that Section 73(2) does not prescribe that there should be an interval of three months between the dates of

the relevant show cause notices and the assessment orders. She also submits that the petitioner has approached this Court belatedly and these writ petitions are liable to be dismissed on that ground.

4. The first ground of challenge by the petitioner entails interpretation of sub-sections (2) and (10) of Section 73. Said provisions are set out below:

> *"(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of the order.*
>
> *(10) The proper officer shall issue the order under sub-section (9) within three 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 three years from the date of erroneous refund."*

5. As can be seen from the text of sub-section (2), said provision is required to be interpreted in light of sub-section (10) thereof. Sub-section (10) prescribes a limitation period for the issuance of an order under sub-section (9) thereof. Said limitation period is three years from the due date for furnishing of the annual return for the financial year that the tax demand relates to. Therefore, sub-section (2) is intended to ensure that the show cause notice preceding adjudication is issued not less than three months before the limitation

period for adjudication expires. The object and purpose is not difficult to discern. If sub-section (2) were not in the statute, it would have been possible for the proper officer to issue the show cause notice fifteen days prior to the expiry of the limitation period and thereafter hurriedly conclude the adjudication. It does not, however, follow from sub-section (2) that there should be a mandatory three month interval between the show cause notice and the order of adjudication even if such show cause notice was issued more than three months before the time limit for adjudication under sub-section (10).

6. It is a separate matter that there should be a reasonable interval between the show cause notice and the order of adjudication so as to provide a reasonable opportunity to the tax payer to respond to the show cause notice meaningfully and contest the tax proposals. Merely because the statute incorporates the requirements of natural justice with regard to providing about three opportunities to the tax payer to seek adjournments, a mandatory three month interval between the show cause notice and the order of adjudication cannot be read into Section 73. Therefore, I am unable to endorse the views of the *Bombay High Court* in the judgment cited by learned counsel.

7. Learned counsel also contended that the two orders are contradictory. The first order proceeds on the assumption that input tax credit was availed of and utilised in respect of exempt supplies, whereas the second order proceeds

on the assumption that the supplies are not exempt. Therefore, there is merit in the contention of learned counsel for the petitioner as regards this ground of challenge.

8. For reasons aforesaid, subject to the remittance of 25% of the disputed tax demand relating to the order challenged in W.P.No.25946 of 2026, after adjusting recoveries, if any, relating thereto, within ***thirty days*** from the date of receipt of a copy of this order, both the orders impugned herein are set aside and these matters are remanded for re-consideration. After providing a reasonable opportunity to the petitioner, a fresh order shall be issued within ***three months*** from the date of remittance of 25% in the manner mentioned above. For the avoidance of doubt, it is clarified that it is open to the proper officer to examine whether the supplies are indeed exempt. Subject to fulfilment of the condition specified above, the bank attachment shall stand raised.

9. These writ petitions are disposed of on the above terms. Consequently, connected writ miscellaneous petitions are closed. There shall be no order as to costs.

17-07-2026

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

To

The Assistant Commissioner (st) (fac)
Tiruvallur Assessment Circle,
No.4/109, bangalore highway, nazarathpet, chennai
- 600123.

SENTHILKUMAR RAMAMOORTHY, J.

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