WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR. JUSTICE E.MANOHARAN

W.A.No.3281 of 2026

Case QR

CNR:{HCMA012509272026}

and

C.M.P.No.29027 of 2026

T.Uma
D/o. R. Thirumavalavan,
Block No.151, House No.12,
Golden Jubilee Flats, Anna Nagar,
West Extension, Chennai-600 040. … Appellant

vs.

1. The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Joint Commissioner (State Tax),
Chennai (South) Division,
Chennai - 600 035.

3. N.Usha,
Enquiry Officer,
Joint Commissioner (ST),
Intelligence, Chengalpattu Division,
Chengalpattu … Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, pleased to set aside the order dated 15.09.2026 made in WP.No.16925 of 2026 and allow this Writ Appeal and consequently quash the charge memo dated 20.02.2026 issued by the 2nd Respondent in R.C.No.978/2025/A1 and consequently direct the Respondents to extend all consequential service benefits to the appellant.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

For Appellant: Mr.S.R.Rajagopal, Senior Advocate,
for Mr.R.Muniyapparaj.

For Respondents: Mr.S.Illamvaludhi,
Special Government Pleader,
for R1 & R2

ORDER

(Order of the Court was made by G.Jayachandran J.)

Intra-court appeal has been filed, being aggrieved by the order passed by the Learned Single Judge in the writ petition filed by the petitioner, seeking a writ of Certiorarified mandamus calling for the records relating to the charge memo issued to her on 20.02.2026, to quash the same and consequently direct the respondents to extend all service approvals.

2. The Learned Single Judge had considered the prayer sought in the writ petition and disposed of the writ petition with the following observations:

> *"11. Accordingly, the writ petition is disposed of, permitting the petitioner to participate in the enquiry proceedings initiated pursuant to the impugned charge memo dated 20.02.2026. The respondents are directed to conclude the entire disciplinary proceedings in question as expeditiously as possible, at any rate within a period of four months from the date of receipt of a copy of this order, and the petitioner is also directed to cooperate for the early conclusion of the disciplinary proceedings. No costs. Connected miscellaneous petitions, if any, shall stand closed."*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

Order QR

WEB COPY

3. The Learned Senior Counsel appearing for the appellant submitted that the charge memo does not say anything ill about the appellant or alleges illegal gratification or any external consideration for passing the order in exercise of power conferred under Section 161 of the TNGST Act, 2017. Order passed in good faith while exercising Quasi-judicial power cannot be subjected to disciplinary proceedings.

4. According to the appellant, the Learned Single Judge, without following the dictum laid down by the Hon'ble Supreme Court in ***Union of India and others vs. K.K. Dhawan,*** reported in ***(1993) 2 SCC 56***, and without considering the contents of the charge memo, passed the impugned order, which has put the appellant in disadvantageous position to face the domestic enquiry.

5. Further the Learned Senior Counsel for the appellant contended that under Section 157 of the Act, there is an immunity for any action taken by the officials from any prosecution or civil suit, if the action is taken in good faith. While so, the charge memo is liable to be quashed.

6. The Special Government Pleader representing the respondents submitted that the appellant, while discharging her duties of Assistant Commissioner, had taken up the assessment of *Tvl.Appaswamy Real Estates*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

Limited, for review and undertaken fresh factual verification, reconciliation and legal examination, thereby converting the limited power conferred under Section 161 of the TNGST, Act, 2017, for rectification as substantial appeal against the assessment order, which is *ex facie* illegal and without jurisdiction.

7. In response to this averment, the Learned Senior Counsel submitted that if it is so, the Department ought to have preferred appeal against her order for the loss of revenue, which the Department has not thought fit to do and therefore, the act of the appellant done in good faith cannot be a reason to proceed against the appellant.

8. We have carefully considered the judgments relied by the Learned Senior Counsel for the appellant.

9. The charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules enumerates four Article of Charge, which read as below:

ARTICLE OF CHARGE – I

(Willful Excess of Jurisdiction and Abuse of Statutory Power)

That you, while functioning as Assistant Commissioner (State Tax) (FAC), Nandanam Assessment

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

Circle, Chennai, have deliberately exercised powers under Section 161 of the Tamil Nadu Goods and Services Tax Act, 2017 far beyond its statutory contours by reopening concluded assessment orders relating to Tvl. Appaswamy Real Estates Limited for the assessment years from 2017-18 to 2021-22 and undertaking fresh factual verification, reconciliation and legal re-examination, thereby converting the limited rectification provision into a substitute appellate mechanism, which is *ex facie* illegal and without jurisdiction.

ARTICLE OF CHARGE – II

(Usurpation of Appellate Authority and Subversion of Statutory Scheme)

That you have unlawfully assumed appellate powers vested exclusively with higher statutory authorities by nullifying finalized adjudication orders without any appellate mandate or lawful remand, thereby subverting the statutory hierarchy prescribed under the TNGST Act, 2017 and rendering the adjudicatory process nugatory.

ARTICLE OF CHARGE – III

(Gross Financial Impropriety and Serious Prejudice to State Revenue)

That by passing rectification orders resulting in reduction of confirmed tax demands aggregating to Rs.266.46 Crore out of total demands of Rs.278.50 Crore for the assessment years 2017-18 to 2021-22, you have caused grave and irreversible prejudice to the State exchequer and exposed public revenue to enormous risk, without any legally sustainable basis or documentary substantiation, thereby committing gross financial

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

impropriety.

ARTICLE OF CHARGE – IV

(Dereliction of Duty and Lack of Integrity in Quasi-Judicial Function)

That your conduct in systematically deleting or drastically reducing confirmed tax demands without lawful authority demonstrates failure to discharge your quasi-judicial duties with probity, objectivity and legal discipline, and reflects conduct unbecoming of a Government servant entrusted with safeguarding public revenue, gross negligence and abuse of official position and thereby violated rule 20(1) of the TNGSC Rules 1973.

10. The first judgment, which has also been referred by the Learned Single Judge, is the decision of the Hon'ble Supreme Court rendered in ***Union of India and others vs. K.K. Dhawan***, reported in ***(1993) 2 SCC 56***. In that case, the Hon'ble Supreme Court has considered the immunity claimed by the public servant from disciplinary proceedings with respect to matters decided by him in exercise of quasi-judicial functions. In this context, the Hon'ble Supreme Court has made the following observations:

"*19. The above case, therefore, is an authority for the proposition that disciplinary proceedings could be initiated against the Government servant even with regard to exercise of quasi-judicial powers provided:*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

(i) The act or omission is such as to reflect on the reputation of the Government servant for his integrity or good faith or devotion to duty, or

(ii) there is prima facie material manifesting recklessness or misconduct in the discharge of the official duty, or

(iii) the officer had failed to act honestly or in good faith or had omitted to observe the prescribed conditions which are essential for the exercise of statutory power."

Further, the Hon'ble Supreme Court proceeded to conclude as below:

"28. Certainly, therefore, the officer who exercises judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:

(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

(ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;

(iii) if he has acted in a manner which is unbecoming of a Government servant;

(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(v) if he had acted in order to unduly favour a party;

(vi) if he had been actuated by corrupt motive, however small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great".

29. The instances above catalogued are not exhaustive. However, we may add that for a mere technical violation or merely because the order is wrong and the action not falling under the above enumerated instances, disciplinary action is not warranted. Here, we may utter a word of caution. Each case will depend upon the facts and no absolute rule can be postulated.

30. In view of the foregoing discussion, the appeals will stand allowed. There will be no order as to costs.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

31. We make it clear that it is open to the respondent to put forth all defences open to him in the departmental inquiry which will be considered on its merit."

11. Reading of the said judgment indicates that there is no absolute bar to proceed against an erring public servant, if he has acted negligently or recklessly, or in order to confer an undue favour on any person while discharging quasi-judicial function. Furthermore, considering the facts of the case, the Court had granted liberty to the public servant to put forth all the defenses in the departmental enquiry before the Enquiry Officer to consider it on merits.

12. The second judgment relied by the Learned Senior Counsel for the appellant is ***Amresh Shrivastava vs. State of Madhya Pradesh and others*** reported in ***2025 SCC Online SC 693.*** It is the case of a Tahsildar, who has passed an order in original assessing the nature of the property, which was considered by the higher officials as misconduct and therefore disciplinary proceedings was initiated against him.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

13. While considering the facts of the case, the Division Bench of the Madhya Pradesh High Court allowed the writ appeal filed by the Department and restored the disciplinary proceedings and revived the charge sheet. Further appeal before the Hon'ble Supreme Court by the delinquent employee. The Apex Court considering the peculiar facts of the case, held that an employee should not made to suffer. After narrating the relevant facts and circumstances, the appeal of the employee was allowed by the Hon'ble Supreme Court in that case with the following observations:

> "*16. In the present case, we are of the considered view that the charges alleged against the Appellant in the charge sheet fall under the category of a wrongful order, which does not appear to have been influenced by extraneous factors or any form of gratification. It appears that the order has been passed in good faith, without any indication of dishonesty. Furthermore, the facts outlined in the Show Cause Notice do not suggest any such impropriety. The power exercised by the Appellant in his capacity as a Tehsildar, while passing the order of Land Settlement Order, cannot be considered of a nature that would warrant disciplinary proceedings against him. The decision relied upon by the Counsel for the Appellant as mentioned above, supports this view. Consequently, the first question is answered in favor of the Appellant.*"

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

14. On going through the two judgments cited as precedents and the charge memo which was issued to the appellant, we find that there is no aberration or violation in the order of the Learned Single Judge insofar as the dictum laid down by the Hon'ble Supreme Court in the two judgments cited above. In fact, the charge memo makes a specific allegation that the appellant has exceeded the limited power conferred under Section 161 of the TNGST Act, 2017, which reads as below:

> ***Section 161. Rectification of errors apparent on the face of record.-***
>
> *Without prejudice to the provisions of Section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:*
>
> *Provided that no such rectification shall be done after a period of six months from the date of issue of such*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

15. The only defense taken by the appellant is that the action was done in good faith and the Department has not preferred any further appeal against this order. However, this cannot be a sword to cut the disciplinary proceedings initiated by the Department at the threshold. The state has suffered huge loss due to the order passed by the appellant have exceeded the authority conferred under the Act.

16. This position is made well clear in the decision of the Hon'ble Supreme Court rendered in ***Amresh Shrivastava vs. State of Madhya Pradesh and others***. It is not whether further action taken by the department due to the misconduct of the officials matters, but the conduct of the official itself is the

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

matter for consideration in the disciplinary proceedings.

17. When a prima facie case been made out against the appellant by way of Articles of charges which says, she under the guise of rectification, has reduced the confirmed tax demand aggregating to Rs.266.46 crores out of total demands of Rs.278.50 crores, into Rs.17 crores, this requires scrutiny of facts. For that purpose, the appellant has to necessarily participate in the domestic enquiry justify her decision. She cannot run away from the said process.

18. Hence, we find no error in the order passed by the Learned Single Judge to interfere.

19. Accordingly, the Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(Dr. G.JAYACHANDRAN, J.) & (E.MANOHARAN J.)
27-10-2026

Index :Yes/No.
Internet :Yes.
Neutral Citation :Yes/No.
bsm

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

To

1. The Commissioner of Commercial Taxes,
Ezhilagam,
Chepauk,
Chennai-600 005.

2.The Joint Commissioner (State Tax),
Chennai (South) Division,
Chennai - 600 035.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)

WEB COPY

Dr. G.JAYACHANDRAN, J.
AND
E.MANOHARAN, J.
bsm

W.A.No.3281 of 2026
&
C.M.P.No.29027 of 2026

27-10-2026

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/10/2026 05:13:19 pm)