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W.P.Nos.9071, 9075 & 9080 of 2025
and W.M.P.Nos.10179, 10183 & 10188 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.9071, 9075 & 9080 of 2025
and W.M.P.Nos.10179, 10183 & 10188 of 2025

M/s.Agni Estate Foundations Private Ltd.,
Rep. by its Director,
Mr.Santhoshkumar,
No.76, Third Floor, Temple Towers,
North Mada Street, Mylapore,
Chennai – 600 004.

.. Petitioner
in all W.Ps

Vs.

1.The State Tax Officer, Group-II,
Chengalpattu Intelligence (Division),
No.870/2A, 1st Floor,
Kancheepuram High Road,
Thimmavaram,
Chengalpattu – 603 101.

2.The State Tax Officer, CIC,
Intelligence-II,
Room No.S 226, 2nd Floor,
No.1, PAPJM Buildings,
Greens Road, Thousand Lights,
Chennai – 600 006.

.. Respondent
in all W.Ps

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W.P.Nos.9071, 9075 & 9080 of 2025
and W.M.P.Nos.10179, 10183 & 10188 of 2025

Prayer in W.P.No.9071 of 2025:

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Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned DRC-07 order dated 29.01.2025, bearing Reference No.ZD330125277522L, passed by the 1st respondent under Section 74 of the CGST Act, 2017 and quash the same and further direct the 1st respondent to determine the tax demanded by deeming as if the the DRC-01 notice dated 24.07.2024 was issued under Section 73(1) of the TNGST/CGST Act, 2017, in accordance with the provisions of 75(2) of TNGST/CGST Act.

Prayer in W.P.No.9075 of 2025:

Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned DRC-07 order dated 29.01.2025, bearing Reference No.ZD330125277158E, passed by the 1st respondent under Section 74 of the CGST Act, 2017 and quash the same and further direct the 1st respondent to determine the tax demanded by deeming as if the the DRC-01 notice dated 30.07.2024 was issued under Section 73(1) of the TNGST/CGST Act, 2017, in accordance with the provisions of 75(2) of TNGST/CGST Act.



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Prayer in W.P.No.9080 of 2025:

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Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned DRC-07 order dated 29.01.2025, bearing Reference No.ZD3301252772520, passed by the 1st respondent under Section 74 of the CGST Act, 2017 and quash the same and further direct the 1st respondent to determine the tax demanded by deeming as if the the DRC-01 notice dated 30.07.2024 was issued under Section 73(1) of the TNGST/CGST Act, 2017, in accordance with the provisions of 75(2) of TNGST/CGST Act.

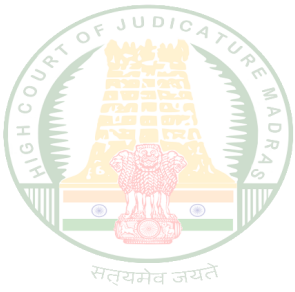
In all W.Ps

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.C.Harsha Raj
Special Government Pleader (Taxes)

COMMON ORDER

These Writ petitions have been filed by the petitioner challenging the impugned assessment orders in DRC-07 dated 29.01.2025, for the assessment years 2017-2018, 2018-2019 and 2019-2020 issued under Section 74 of the Central Goods and Services Tax Act, 2017 (hereinafter referred as 'The Act').



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2.Learned counsel for the petitioner would submit that the petitioner is engaged in the business of real estate activities and is a registered assessee under the Act. The books of accounts of the petitioner for the financial years 2017-18, 2018-2019 and 2019-2020 were subjected to inspection under Section 67 of the Act. Subsequent to such inspection, the petitioner was served with a show cause notices dated 24.07.2024, 29.07.2024 and 30.07.2024 for the financial years 2017-18, 2018-2019 and 2019-2020 respectively, in Form GST DRC-01, under Section 74 of the Act, for which, the petitioner field its replies requesting the respondents to rectify Section 74 proceedings to Section 73 notice, as there were no ingredients justifying invocation of Section 74 of the Act. Further, the entire tax has been paid by the petitioner much prior to the inspection and the same was duly declared in GSTR-9/9C. However, the 1st respondent has passed the impugned assessment orders dated 29.01.2025 under Section 74 of the Act.

3.He would further submit that there is no allegation of suppression of facts, misstatement or fraud with the intention to evade tax against the



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petitioner in the show cause notices and therefore, none of the ingredients are satisfied to invoke Section 74 of the Act. The 1st respondent without application of mind has passed an order under section 74 of the Act. The petitioner is entitled to seek the benefit of the Amnesty Scheme introduced vide Section 128A CGST/TNGST Act, 2017, which provides for waiver of interest and penalty in certain cases where tax has been paid in full before a notified date. Since the 1st respondent has passed the impugned order under Section 74 of the Act, it deprives the petitioner's right to claim the benefit of the Amnesty Scheme. Hence, he prayed to set aside the impugned order.

4.Mr.C.Harsha Raj, learned Special Government Pleader appearing for the respondents after getting a written instruction from the respondents would fairly submit that in the present case, show cause notices were issued under Section 74 of the Act and the petitioner filed its reply stating that the ingredient of Section 74 of the Act is not fulfilled and further the petitioner has paid the entire tax and requested the respondents to rectify Section 74 proceedings to Section 73 notice. However, the respondents have no power and jurisdiction to reclassify the proceedings under Section 73 instead of

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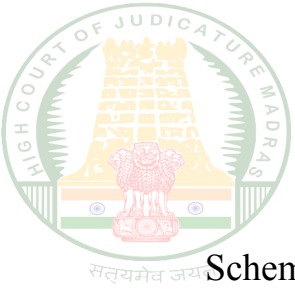
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Section 74 of the Act. Under such circumstance, he would fairly submit that if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders so that, the petitioner can avail the benefit of Amnesty Scheme.

5. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondent and perused the materials available on records.

6. Upon hearing the above submissions, it is evident that the show cause notices were issued under Section 74 of the Act. A perusal of the notice, it appears that no aspect of suppression of facts, wilful misstatement or fraud has been stated in the show cause notices to fulfil the ingredient of Section 74 of the Act and therefore, the same is not sustainable under the Provision of Section 74 of the Act. However, the 1st respondent proceeded to pass the impugned orders. The main grievance of the petitioner is that since the impugned orders were passed under Section 74 of the Act, it deprives the petitioner's right in availing the benefit under the Amnesty

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Scheme. Therefore, as suggested by the learned Special Government Pleader, it would be proper to say that the notice issued under Section 74 of the Act shall be deemed as notice under Section 73 of the Act so as to enable the petitioner to avail the benefits under the Amnesty Scheme. Accordingly, the notices and the impugned orders passed under Section 74 of the Act shall be deemed as the notices and orders passed under Section 73 of the Act.

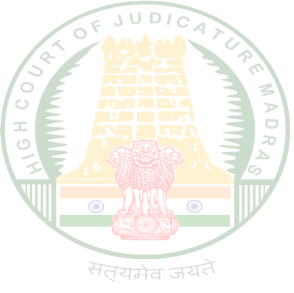
7. With the above observations, these writ petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes/No

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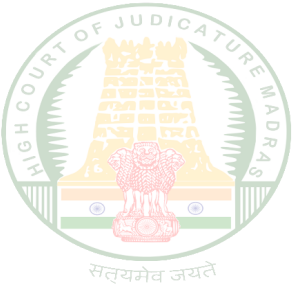


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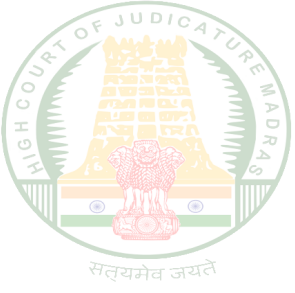
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KRISHNAN RAMASAMY, J.

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