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Madras HC sets aside assessment order on seigniorage fees and stays enforcement pending the Supreme Court verdict

The Hon'ble Madras High Court (Madurai Bench) in *Tvl. Manickavasagam S. v. The Proper Officer/Commercial Tax Officer [W.P(MD) No. 14948 of 2026 dated June 05, 2026]* set aside the assessment order passed under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017 ("**the TNGST Act**") pertaining to levy of GST on seigniorage fees and held that since the very incidence of tax itself is at large is pending before the Hon'ble Supreme Court of India, the matter is remanded for fresh consideration without imposing the customary condition of pre-deposit, with the further direction that the final orders shall be kept in abeyance and enforcement and further demand of any liability so determined shall await the outcome of the Supreme Court's judgment.

Facts:

Tvl. Manickavasagam S. ("**the Petitioner**") was issued an assessment order in GST ASMT 15 Temporary ID: 332500004524 TMP/2020-2021, dated February 24, 2026 ("**the Impugned Order**") by the Proper Officer/Commercial Tax Officer, Sivagangai ("**the Respondent**") under Section 74 of the TNGST Act, 2017.

The subject matter of dispute pertained to the levy of GST on **seigniorage fees**, an issue which is presently pending adjudication before the Hon'ble Supreme Court of India.

The Petitioner had filed a reply to the show cause notice; however, the said reply was not considered by the Respondent while passing the Impugned Order.

Aggrieved, the Petitioner preferred a writ petition before the Hon'ble Madras High Court under Article 226 of the Constitution of India seeking quashing of the Impugned Order as illegal, arbitrary and against the principles of natural justice.

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Contentions:

The Petitioner contended that the subject matter in dispute is pending before the Hon'ble Supreme Court of India and that the Hon'ble High Court has already held in earlier matters that the authorities shall await the orders of the Apex Court.

Per contra, the Revenue contended that the Hon'ble High Court has been directing the assessing authorities to complete the proceedings; however, the orders of the Appellate Authority were directed to be kept in abeyance until the orders are passed by the Hon'ble Supreme Court of India. The Revenue placed reliance on the orders of the Madras High Court in ***M/s. Marginal M Sand v. State Tax Officer [W.P(MD) No. 22159 of 2025]*** and ***Tvl. Rajapalayam Cement and Chemicals Limited v. Assistant Commissioner [W.P(MD) No. 32352 of 2025]***.

Issue:

Whether the assessment order passed under Section 74 of the TNGST Act, 2017 levying GST on signiorage fees, where the very incidence of tax itself is at large before the Hon'ble Supreme Court of India and where the Petitioner's reply was not considered, can be sustained?

Held:

The Hon'ble Madras High Court (Madurai Bench) in ***W.P(MD) No. 14948 of 2026*** held as under:

- Observed that, while in earlier matters such as *M/s. Marginal M Sand* and *Tvl. Rajapalayam Cement and Chemicals Limited*, the Court had granted permission to the assessing authorities to complete the proceedings, it had simultaneously directed that final orders shall not be passed and that the authorities have to await the orders of the Hon'ble Supreme Court of India.

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- Noted that, in the present case, although the order of assessment had been passed, the reply filed by the Petitioner was not considered by the Respondent, thereby violating the principles of natural justice.
- Held that, considering the fact that the very incidence of tax itself is at large, the Petitioner can be granted an opportunity to be heard afresh. Further, although the Court normally imposes a condition of deposit of 25% while granting such opportunity on equitable considerations, since in this case the very incidence of tax itself is at large, no such additional condition is imposed on the Petitioner.
- Directed that, the Impugned Order dated February 24, 2026 shall stand set aside and the matter shall stand remanded back to the file of the Respondent for fresh consideration. The Petitioner shall, within two weeks from receipt of a web copy of the order, file additional reply along with supporting documents and the Respondent shall consider the matter afresh; however, the final orders shall be kept in abeyance until the orders are passed by the Hon'ble Supreme Court of India.
- Further directed that, if the order on remand is in favour of the Petitioner, then there is no difficulty; however, if it results in the assessment of tax or imposition of penalty, the same shall be communicated to the Petitioner, but the enforcement and further demand of the liability so determined shall be kept in abeyance until the judgment of the Hon'ble Supreme Court of India. As and when the Hon'ble Supreme Court pronounces its judgment, the Petitioner shall be entitled to take further steps subject to the outcome of the said judgment.

Hence, **the writ petition was allowed and the matter remanded back to the Assessing Officer for fresh consideration.**

Our Comments:

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Section 74 of the CGST Act, 2017 (pari materia with Section 74 of the TNGST Act, 2017) empowers the Proper Officer to determine tax not paid, short paid, erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud, wilful misstatement or suppression of facts to evade tax. It mandates the issuance of a show cause notice, consideration of the assessee's reply, and a reasoned order — a quasi-judicial exercise where non-consideration of the assessee's reply vitiates the order on the ground of violation of natural justice, as squarely demonstrated in the present case.

The issue of GST leviability on **seigniorage fee/royalty** paid to the State Government for extraction of minerals from mining/quarry leases is intrinsically linked to the larger question of whether royalty is in the nature of "tax", which is presently pending before the Nine-Judge Constitution Bench of the Hon'ble Supreme Court in *Mineral Area Development Authority v. Steel Authority of India*. Pending the verdict, several High Courts have consistently directed that GST adjudication on royalty/seigniorage be held in abeyance to avoid prejudicing taxpayers.

The Hon'ble Madras High Court in *A. Venkatachalam v. Assistant Commissioner (ST)* had similarly kept orders of adjudication with respect to levy of GST on mining lease/royalty in abeyance and stayed recovery, until the Nine-Judge Constitution Bench in *Mineral Area Development Authority* decides the issue as to the nature of royalty.

In a **pari materia** ruling, the Hon'ble Telangana High Court in *PLR-NCC-NECL (JV) v. Union of India* granted interim stay on the order-in-original dated May 5, 2025, which had confirmed GST demand on amounts deducted towards royalty/seigniorage, District Mineral Foundation (DMF), and State Mineral Exploration Trust (SMET), reinforcing the consistent judicial trend of staying coercive recovery on this issue.

Further, the Andhra Pradesh Authority for Advance Ruling in *Sudhakara Infratech* ruled that an Excess Royalty Collection Contractor (ERCC) is not liable to discharge GST under forward charge on collection of royalty/seigniorage fee, District Mineral Foundation (DMF), Mineral

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Exploration and Research & Innovation Trust (MERIT) and similar statutory levies from mining/quarry leaseholders, lending support to the view that such statutory levies may not constitute a taxable “supply” within the meaning of the GST law.

The instant ruling is a **welcome relief** for taxpayers in the mining, quarrying, and allied sectors who continue to face assessment proceedings and coercive recovery actions on the disputed levy of GST on royalty/seigniorage fees. The Hon’ble Court’s nuanced approach — setting aside the order for non-consideration of the reply, dispensing with the otherwise mandatory 25% pre-deposit condition since the very incidence of tax is at large, and directing that enforcement of any future demand shall remain in abeyance until the Supreme Court’s verdict — strikes a fair balance between revenue interests and taxpayer protection. Taxpayers similarly placed may consider invoking writ jurisdiction to seek analogous protection, particularly where their replies have not been considered or where coercive recovery is being initiated pending the Supreme Court’s verdict.

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