2026:MHC:3952



Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 07-09-2026**

CORAM

**THE HON'BLE DR.JUSTICE ANITA SUMANTH**

**AND**

**THE HON'BLE MR.JUSTICE S.RAVEEKUMAR**

WA.Nos.2615, 2617 and 2616 of 2026

and CMP.Nos.23257, 23262 and 23269 of 2026

Shri. Sheik Dawood
6/12, Maduvankarai,
1st Street,
Alandur,
Chennai-600016. ..Appellant in W.A.No.2615 of 2026

MNS Enterprises
Rep. by its Proprietor Shri Sheik Dawood
6/12, Maduvankarai,
1st Street,
Alandur,
Chennai-600016. ..Appellant in W.A.No.2616 of 2026

Noordeen Enterprises
Rep. by its Proprietor Shri. Sheik Dawood,
SF No.715/2B, Shop No.1, Valugalambedu,
Kundrathur Road,
Thirumudivakkam,
Chennai-600132. ..Appellant in W.A.No.2617 of 2026

Vs

The Additional Commissioner
of GST and Central Excise,
Chennai South Commissionerate,
692, MHU Complex,
Nandanam, Chennai-600032. ..Respondent in all W.A.'s

**Common Prayer:** Writ Appeals filed under Clause 15 of Letters of Patent to set aside the order passed in WP Nos. 20549, 20552 and 20547 of



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2023 all dated 03.06.2026 as the said order are arbitrary, against established principal of natural justice and in violation of the constitution and thus render justice.

In all W.A.'s

For Appellant(s): Mr.G Natarajan

For Respondent(s): Mr.K.Mohanamurali
Senior Panel Counsel

**Common Judgment**

**(Judgment of the Court was delivered by Dr.Anita Sumanth J.)**

Though the matter is listed for admission today, it turns on a short compass. As both learned counsel consent and are fully armed with instructions to enable a final disposal, we decide the Writ Appeals finally at the stage of admission.

2. These three Writ Appeals have been filed assailing the common order passed by the Writ Court on 03.06.2026 where the challenge was to an Order-in-original dated 28.03.2023, common to two sister concerns and a sole proprietary, passed under the provisions of the Central Goods and Services Tax Act, 2017 ('CGST Act').

3. Though several grounds were raised, the main ground on which the impugned order of assessment was assailed was lack of opportunity afforded to cross examine two individuals, Joseph Selvaraj and Joseph Selvaraj Alexander,



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whose statements had been relied upon by the Assessing Authority while framing the order- in-original.

4. Mr.G.Natarajan, learned counsel for the appellants submits that the show cause notices as well as the impugned order-in-original refer to the statements of the two individuals as aforesaid, who had deposed before the authorities that the transactions in regard to which Input Tax Credit (ITC) had been claimed by the appellant were fictitious, and the claim of ITC was bogus.

5. Despite a specific request for cross-examination, the opportunity has been denied and no reason has been given for such denial. Appellant relies on the following decisions:

*(i) Andaman Timber Industries v. Commissioner of C.Ex., Kolkata-II*[1]
*(ii) Vijayaraj Surana v. Commissioner of Customs, Chennai - III*[2]
*(iii) K.Srinivasulu v. Commissioner of Customs, Chennai – III*[3]
*(iv) M.P.Ganesan v. Commercial Tax Officer, Chennai*[4]

6. Per contra, Mr.Mohanamurali, learned Senior Panel Counsel appearing for the respondent argues that right of cross examination is not absolute and the conclusion of the Writ Court was discretionary, and hence cannot be assailed.

7. We have heard both learned counsel and perused the materials placed before us.

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[1]2015 (324) ELT 641 (SC)
[2]2016 (340) ELT 308 (Mad)
[3]2017 (345) ELT 477 (Mad.)

[4]2020 (42) GSTL 178 (Mad.)



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8. The short point that arises for consideration is as to whether the right to cross examine can be insisted upon by the assessee, and the circumstances to be taken into account when considering such a request.

9. In the present case, the claim, on merits, relates to ITC. Show cause notices had been issued by the authority on 01.08.2022 proposing to deny ITC on various grounds. One of the grounds for the proposal was the statements of two individuals, Joseph Selvaraj and Joseph Selvaraj Alexander.

10. A reply was filed on 27.12.2022, wherein the appellants had submitted that the two individuals had been coerced and threatened, and hence fearing for their life and liberty, they had deposed adverse to the appellant. The appellants had reiterated the claim for ITC and requested opportunity to cross examine the individuals.

11. Their reply dated 27.12.2022 is styled as an interim reply subject to the grant of opportunity to cross examine and produce necessary evidence. The Assessing Authority has afforded personal hearing where also the assessee has reiterated the submissions in the interim reply including the request for cross examination.

12. The request was denied, and in the order-in-original, the assessing officer states that that the right of cross examination is not an absolute right. The officer states that the individuals had been afforded opportunity before the



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Additional Chief Metropolitan Magistrate to retract their statements if so inclined, but they had not chosen to do so.

13. Hence, he chooses to disbelieve the statement of the appellants that the individuals had been coerced into deposing adverse to them. The proposals in the show cause notice were thus confirmed, citing in extenso, the statements of the two individuals for which no opportunity to cross examine had been afforded.

14. While it is for the Assessing Authority to decide as to whether the statements recorded are credible, once he finds them credible enough to use, in all fairness, the assessee must be given opportunity to rebut the same by cross-examination.

15. In the present case, we find liberal reliance on the statements recorded, and the conclusions adverse to the assessees flow directly from such reliance. It hence becomes incumbent upon the Assessing Authority to have granted opportunity to the assessees to cross examine the individuals.

16. It would have been a different matter altogether had the officer eschewed the statements, which he has not chosen to. In such an event, while agreeing with the learned single Judge that the right to cross examine is not absolute in all cases, exceptions must be made in cases where the Assessing Authority finds the statements credible and chooses to rely on the same.



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17. For the aforesaid reasons, we set aside common order dated 03.06.2026 and impugned order of assessment dated 28.03.2023. The Assessing Authority is directed to afford reasonable opportunity to the assessee to cross examine the two individuals and frame the assessment thereafter, within a period of eight (8) weeks from date of receipt of a copy of this order. He is at liberty to proceed with the matter in accordance with law in the absence of co-operation from either the assessee or the two individuals.

18. These Writ Appeals are allowed in terms of this order. No costs. Connected Miscellaneous Petitions are closed.

**(A.S.M.,J.)** **(S.R.K.,J.)**

**07-09-2026**

sl

Index: Yes
Speaking order
Neutral Citation: Yes

To

The Additional Commissioner
of GST and Central Excise,
Chennai South Commissionerate,
692, MHU Complex,
Nandanam, Chennai-600032.



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