



W.P.No.1215 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :21.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.1215 of 2025

and

W.M.P.Nos.1462 and 1466 of 2025

M/s.Metropolitan Transport Corporation Chennai Ltd.,
Represented by Sasikala.S
Chief Financial Officer,
No.2, Pallavan House, Pallavan Salai,
Chennai 600 002.

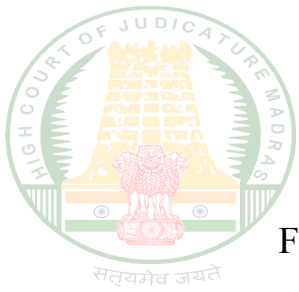
... Petitioner

Vs.

The Deputy Commissioner of GST and Central Excise,
Egmore Division, Chennai North Commissionerate
1st Floor, Newry Towers No.2054-I, Anna Nagar,
Chennai 600 040.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus calling for the records in
order passed by the respondent vide Order in Original No.13 of 2024 dated
08.08.2024 along with DIN No.20240859TK0000495634.



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For Petitioner

: Mr.M.Narasimha Bharathi

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: Mrs.Revathy Manivannan,
Standing Counsel.

ORDER

The present writ petition is filed challenging the impugned Order in Original No.13 of 2024 dated 08.08.2024.

2. The petitioner is engaged in the business of providing vehicles on rental services such as buses, coaches, cars, trucks and other motor vehicles . The petitioner is registered under the Goods and Services Tax Act, 2017. The petitioner had filed its return in April 2020, however admittedly, the above return contained certain errors and the petitioner was unable to rectify or file a revised return. The short payment amounted to Rs.24,26,988/-. It is submitted by the learned counsel for the petitioner that the difference of Rs.24,26,988/- was reflected in the GST PMT-06 Challan in the electronic cash ledger on 02.06.2020, which is disputed by the learned counsel for the respondent. It is submitted by the learned counsel for the petitioner that, in any view, there was adequate balance in the electronic cash ledger during the period from 2020-21 to 2023-24 as would be evident from the following table:

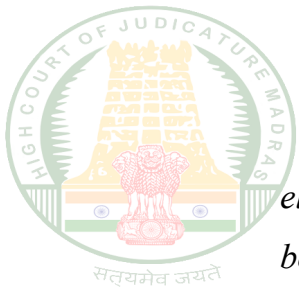


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Year	Opening Balance	RCM & Other than RCM		Closing Balance
		Debit	Credit	
2020-21	5,43,421	3,68,62,256	3,92,89,278	29,70,443
2021-22	29,70,443	4,26,47,242	4,26,47,236	29,70,437
2022-23	29,70,437	4,76,29,482	4,76,04,640	29,45,595
2023-24 (upto 08.02.2024)	29,45,595	4,75,44,372	4,51,17,390	5,8,613

3. It is submitted by the learned counsel for the petitioner that an amount of Rs.24,26,988/- was debited vide DRC 03 ARB AD3302240132080 dated 08.02.2024 and that this has been considered as the date of payment, following which interest has been levied. The learned counsel for the petitioner would then place reliance upon Rule 88B of the GST Rules (inserted vide Notification No.14/2022 dated 05.07.2022), which has been given retrospective effect from 01.07.2017. The relevant Rule 88B of the GST Rules reads as under:

“88B. Manner of calculating interest on delayed payment of tax.-(1) In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the



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electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of section 50.

(2) In all other cases, where interest is payable in accordance with sub section (1) of section 50, the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid, at such rate as may be notified under sub-section (1) of section 50.

(3) In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with sub-section (3) of section 50, the interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, at such rate as may be notified under said sub-section (3) of section 50.

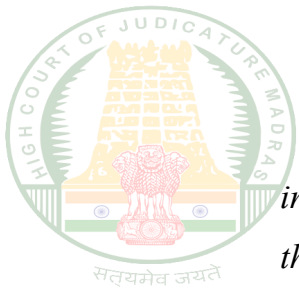
Explanation. —For the purposes of this sub-rule, —

(1) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

(2) the date of utilisation of such input tax credit shall be taken to be,

—

(a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of



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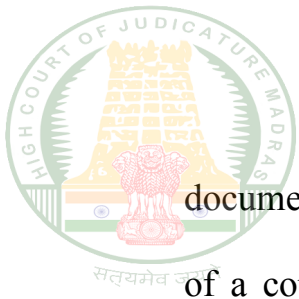
input tax credit wrongly availed, on account of payment of tax through the said return; or

(b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.”

4. According to the petitioner, if Rule 88B had been duly considered, the levy of interest would be impermissible inasmuch as there was adequate balance in the electronic cash ledger during the relevant period, however, the same is rejected by the respondent on the premise that the tax payer had not maintained sufficient balance in the electronic cash ledger.

5. The learned counsel for the petitioner would submit that if they are given an opportunity, they would be able to demonstrate that there was adequate balance in the electronic cash ledger during the relevant period and would thus request one final opportunity to put forth their case before the respondent authority, which was not objected to by the learned counsel for the respondent.

6. In view thereof, the impugned Order in Original No.13 of 2024 dated 08.08.2024 is set aside. It is open to the petitioner to treat the impugned order as a Show Cause Notice and submit its objections along with supporting



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documents/material within a period of two (2) weeks from the date of receipt of a copy of this order. If any such objections are filed, the same shall be considered by the respondent and appropriate orders shall be passed in accordance with law after affording the petitioner a reasonable opportunity of hearing. If the objections are not filed within the stipulated period as stated supra, the impugned order shall stand restored.

7. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.01.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
shk

To:

The Deputy Commissioner of GST and Central Excise,
Egmore Division, Chennai North Commissionerate
1st Floor, Newry Towers No.2054-I, Anna Nagar,
Chennai 600 040.



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MOHAMMED SHAFFIQ, J.

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