

W.P.No.1365 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.1365 of 2025 and
W.M.P.Nos.1614 and 1615 of 2025

Tvl.Maek Woodworks LLP,
Rep. By its partner Mr.Manish Marlecha,
No.40, 2nd Floor, Seeyali Mudali Street,
Marshal Road, Pudupet, Chennai 600 002.

..Petitioner

Vs.

The Assistant Commissioner (ST),
Chintaripet Assessment Circle,
Annex Building, 1st Floor, Greams Road,
Chennai 600 006.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records of the respondent in order dated 26.04.2024 in GSTIN:33ABFFM5200J1ZL/2018-19 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : M/s.C.Rekhakumari

For Respondent : Ms.Amrita Dinakaran,
Government Advocate.



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ORDER

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2. It is submitted that an amendment has been brought into the GST Acts and that Section 16(5) has now been inserted vide Section 118 of the Finance (No. 2) Act, 2024. The relevant provision reads as under:

“118. In section 16 of the Central Goods and Services Tax Act, with effect from the 1st day of July, 2017, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.”

(6) Where registration of a registered person is cancelled under section 29 and subsequently the

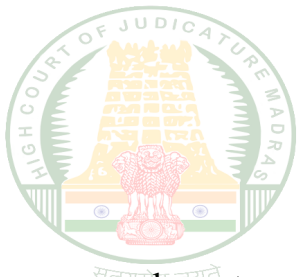


cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—

(i) filed up to thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later.”

3. It is submitted by the learned counsel for the petitioner that in view of the above amendment, the reasons cited by the adjudicating authority while passing the impugned order of assessment may no longer survive and the respondent would



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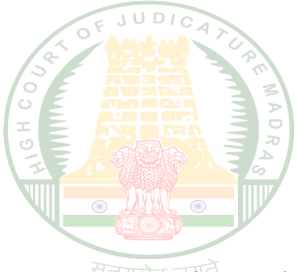
have to re-do the assessment in accordance with the above amendment.

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4. The learned counsel for the petitioner would submit that earlier this Court has on numerous occasions, remanded on the basis of the Bill proposing the present amendment. The learned Government Advocate appearing for the respondent would submit that they would re-do the assessment taking into account the Finance (No.2) Act, 2024.

5. In view thereof, the impugned order passed by the respondent dated 26.04.2024 is set aside. The learned assessing/adjudicating authority/respondent would re-do the assessment by taking into account the amendment referred supra. The petitioner may submit their objection by way of reply, within a period of three (3) weeks from the date of receipt of a copy of this order along with the amendment and other details. If any such reply is filed, the same shall be considered and orders shall be passed, after affording reasonable opportunity of personal hearing to the petitioner. In respect of other issues, if any, the impugned order shall remain undisturbed.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order



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as to costs. Consequently, connected miscellaneous petitions are closed.

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Speaking (or) Non Speaking Order

Index: Yes/No

Neutral Citation: Yes/No

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To

The Assistant Commissioner (ST),
Chintaripet Assessment Circle,
Annex Building, 1st Floor, Greaves Road,
Chennai 600 006.

MOHAMMED SHAFFIQ, J.

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