IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.1766 and 1792 of 2025
and
W.M.P.Nos.2039, 2040, 2012 and 2013 of 2025

Tvl.Arjuna Sarees and Readymades,
(Represented by its
proprietor Mr.Gopala Krishnan),
No.193/174, Erode Road,
Perundurai-638 052 ..Petitioner
in W.P.Nos.1766 and 1792 of 2025

Vs.

1.Assistant Commissioner (ST) (FAC)
(also known as Commercial Tax Officer)
Perundurai Assessment Circle,
Perundurai

2.The State Tax Officer,
(also known as Sales Tax Officer)
Perundurai Circle, Perundurai ..Respondents
in W.P.Nos.1766 and 1792 of 2025

PRAYER in W.P.Nos.1766 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for the records on the files of the second respondent herein in his proceeding in FORM GST DRC -08 with Reference No.ZD331124042959A dated 08.11.2024 for the tax period April 2018 -March 2019 rectifying the original order in FORM GST DRC-07 with Reference No.ZD330424103645Q dated 13.04.2024 along with GSTIN:33AZVPG8246L1ZP/2018-19 dated 13.04.2024 and quash the same and pass orders.

PRAYER in W.P.Nos.1792 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for the records on the files of the second respondent herein in his proceeding in GSTIN:33AZVPG8246L1ZP/2018-19 dated 13.04.2024 along with FORM GST DRC-07 with Reference No.ZD330424103645Q dated 13.04.2024 for the tax period APR 2018- MAR 2019 and quash the same and pass orders.

For Petitioner : Mr.K.A.Parthasarathy

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

COMMON ORDER

Since the issue involved and the relief sought in both these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. The present Writ Petitions are filed challenging the assessment orders dated 13.04.2024 for the period 2018-2019, on the premise that the Input Tax Credit has been disallowed only on the ground that the claims have been lodged beyond the period prescribed under Section 16(4) of the GST Acts.

3. 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."

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

5. 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 for the respondents would submit that they would re-do the assessment taking into account the Finance (No.2) Act, 2024.

6. In view thereof, the impugned orders dated 13.04.2024 are 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, the impugned order shall remain undisturbed.

7. With the above direction, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.01.2025

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

To
1.Assistant Commissioner (ST) (FAC)
(also known as Commercial Tax Officer)
Perundurai Assessment Circle,
Perundurai

2.The State Tax Officer,
(also known as Sales Tax Officer)
Perundurai Circle, Perundurai

MOHAMMED SHAFFIQ, J.

jd

W.P.Nos.1766 and 1792 of 2025

23.01.2025