IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.03.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.3256 of 2025 &
W.M.P.Nos.3601 and 3602 of 2025

Tvl.R.N.S.Engineering Works,
Rep. by its proprietor Neelagandan
No.20/20A, Poomagal 1st Street,
Ambal Nagar, Ekkattuthangal,
Chennai, Tamil Nadu-600032. .. Petitioner

.. Vs..

1. The Assistant Commissioner (ST)
Guindy Assessment Circle,
Integrated Commercial Taxes Building
Nandanam, Chennai-600035.

2.The Deputy Commercial Tax Officer
Guindy Assessment Circle,
No.253, 2nd Floor, Integrated Commercial
Taxes Building, Nandanam,
Chennai-600035. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order vide reference

No:ZD330824140750K dated 17.08.2024 under Section 73 of the CGST/TNGST Act, 2017 by the 2nd respondent and quash the same being void, illegal and against the provisions of law and direct the 2nd respondent to allow the input tax credit availed by the petitioner.

For Petitioner : Mr.K.Thiyagarajan

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

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ORDER

This writ petition has been filed by the petitioner challenging the impugned order of the respondent 17.08.2024 and to quash the same being void, illegal and against the provisions of law and direct the 2nd respondent to allow the input tax credit availed by the petitioner.

2. The learned counsel for the petitioner would submit that there are two issues involved in this Writ Petition. One is with regard to Section 16(4) and the other is with regard to Section 16(2)(c). Further, he would submit that this writ petition may be disposed of in the light of

the order passed by this Court on 17.10.2024 in W.P.No.25081 of 2024 etc., batch, with respect to Section 16(4) alone.

3. As far as the issue with regard to Section 16(2)(c) is concerned, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) appearing for the Respondents has no serious objection.

4. Heard both sides. Perused the records.

5.In view of the order passed by this Court on 17.10.2024 in W.P.No.25081 of 2024 etc., batch, this Writ Petition is allowed with respect to the issue pertaining to Section 16(4). With respect to Section 16(2)(c), this Court is inclined to pass the following order:

(i) The impugned order dated 17.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondents within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Note: Issue order copy on 01.04.2025

KRISHNAN RAMASAMY.J.,

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To

1. The Assistant Commissioner (ST)
Guindy Assessment Circle,
Integrated Commercial Taxes Building
Nandanam, Chennai-600035.

2.The Deputy Commercial Tax Officer
Guindy Assessment Circle,
No.253, 2nd Floor, Integrated Commercial
Taxes Building, Nandanam,
Chennai-600035.

W.P.No.3256 of 2025

27.03.2025