IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5898 of 2025
& W.M.P.Nos.6474 & 6477 of 2025

M/s.Nagarajan Construction Company Private Limited,
Rep by its Managing Director, M.Nagarajan,
No.4, Flat No.6, 2nd Floor,
Cathedral Apartmetn, Cathedral Garden Road,
Nungambakkam, Chennai 600034

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Egmore Assessment Circle,
No.88, Mayor Ramanathan Street,
Chetpet, Chennai 600 031

2.The Assistant Commissioner (ST),
Nungambakkam Assessment Circle Central III,
No.88, Mayor Ramanathan Street,
Chetpet, Chennai 600 031

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records culminating in No.ZD3310232004166 dated 30.10.2023 passed by the respondent and quash the same is wholly without jurisdiction and clear violation of Section 140(1) of the TNGST Act, 2017.

For Petitioner	:	Mr.V.Haribabu, for Mr.K.Chandrasekaran
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings dated 30.10.2023 passed by the respondent.

2. The learned counsel for the petitioner would submit that the issue involved in this case is pertaining to the transition of credit in respect of Tax Deducted at Source (TDS), which was accumulated under the TNVAT Act. In this regard, a notice dated 21.07.2022 was issued by the respondent, for which a detailed reply dated 30.08.2022 was filed by the petitioner. Thereafter, only the summary of impugned order was uploaded by the respondent, due to which, the petitioner was unable to file their appeal against the said impugned order.

3. Further, he would submit that in a similar situation, this Court

had allowed the writ petition in W.P.No.3613 of 2019 [***DMR Constructions vs. Assistant Commissioner***] reported in ***(2021) 91 GSTR 278***, whereby it has been held that the petitioners therein are entitled to transition TDS under the TNVAT Act in terms of Section 140 of the TNGST Act, 2017. Hence, he would submit that the issue involved in the present Writ Petition has been squarely covered by the ***DMR Constructions*** case and the said order will squarely applicable to the present case. Hence, he requests this Court to set aside the impugned order dated 30.10.2023.

4. In reply, the learned Additional Government Pleader for the respondent had confirmed the above submissions and requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader and also perused the materials available on record.

6. In this case, it is an admitted fact that only the summary of impugned order was uploaded by the respondent, due to which, the

petitioner was not in a position to file an appeal against the impugned order.

7. The only issue involved in this case is with regard to the transition of credit in respect of Tax Deducted at Source (TDS), which was accumulated under the TNVAT Act. The said issue was already dealt with by this Court in W.P.No.3613 of 2019 [***DMR Constructions vs. Assistant Commissioner***] reported in ***(2021) 91 GSTR 278***, whereby the impugned order was set aside by holding that the petitioners therein are entitled to transition TDS under the TNVAT Act in terms of Section 140 of the TNGST Act, 2017.

8. Therefore, considering the submissions made by the petitioner and in view of the order passed in ***DMR Constructions*** case, this Court is inclined to set aside the impugned order dated 30.10.2023. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 30.10.2023 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(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.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

24.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

1.The Assistant Commissioner (ST),
Egmore Assessment Circle,
No.88, Mayor Ramanathan Street,

Chetpet, Chennai 600 031

2.The Assistant Commissioner (ST),
Nungambakkam Assessment Circle Central III,
No.88, Mayor Ramanathan Street,
Chetpet, Chennai 600 031

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.5898 of 2025
& W.M.P.Nos.6474 & 6477 of 2025

24.03.2025