W.P.Nos.10966, 10968 & 10973 of 2021
and W.M.P.Nos.11597, 11599 & 11600 of 2021

C.SARAVANAN, J.

Today, this writ petition is listed under the caption, “For Clarification” at the instance of the learned counsel for the petitioner.

2. Mr.D.Vijayakumar, learned counsel for the petitioner submitted that by order dated 02.01.2025, this Court dismissed W.P.Nos.10966, 10968 & 10973 of 2021 and granted liberty to the petitioner to file a Statutory Appeal before the Appellate Commissioner. However, the time limit for filing the Statutory Appeal has not been specified in the said order. Therefore, the learned counsel prayed this Court to specify the time limit for filing the Statutory Appeal in Paragraph No.19 of the said order.

3. None appeared on behalf of the respondents.

4. Considering the above submission made by the learned counsel for the petitioner, this Court is inclined to specify the time limit for filing the Statutory Appeal in Paragraph No.19 of the said order. Thus, Paragraph No.19 of the

order dated 02.01.2025 in W.P.Nos.10966, 10968 & 10973 of 2021 passed by this Court is modified as under:

> *"19. In view of the same, I do not find any merits in the present writ petitions. Therefore, these writ petitions are liable to be dismissed and are accordingly dismissed. However, liberty is given to the petitioner to file a Statutory Appeal before the Appellate Commissioner, within a period of thirty days from today (08.04.2025)."*

5. In all other aspects, the order dated 02.01.2025 in W.P.Nos.10966, 10968 & 10973 of 2021 passed by this Court shall remain unaltered. Registry is directed to issue a fresh order to all concerned, after carrying out the aforesaid modification.

08.04.2025

mrr

C.SARAVANAN, J.

mrr

W.P.Nos.10966, 10968 & 10973 of 2021
and W.M.P.Nos.11597, 11599 & 11600 of 2021

08.04.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	24.10.2024
Pronounced on	02.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.Nos.10966, 10968 and 10973 of 2021
and
W.M.P.Nos.11597, 11599 and 11600 of 2021

Tvl.R.M.K.Enterprises,
Represented by its Proprietor Mr.R.Malik,
64A, M.K.N.Road,
Guindy,
Chennai – 32. ... Petitioner in all W.Ps.

Vs.

1.The State Tax Officer,
Central Intelligence Cell,
Intelligence – II, PAPJM Buildings,
Second Floor, Greams Road,
Chennai – 600 006.

2.The Assistant Commissioner (ST),
Alandur Assessment Circle,
I.C.T & R.D. Buildings, (South Tower),
IIIrd Floor,
Nandanam,
Chennai – 600 035. ... Respondents in all W.Ps.

Prayer in W.P.No.10966 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the respondent proceedings in GSTIN:33AKMPM2843F1Z8/2017-2018 dated 03.02.2021 and quash the same.

Prayer in W.P.No.10968 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the respondent proceedings in GSTIN:33AKMPM2843F1Z8/2019-2020 dated 03.02.2021 and quash the same.

Prayer in W.P.No.10973 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the respondent proceedings in GSTIN:33AKMPM2843F1Z8/2018-2019 dated 03.02.2021 and quash the same.

For Petitioner (in all W.Ps)	:	Mr.D.Vijakumar
For Respondents (in all W.Ps)	:	Ms.Amirtha Poonkodi Dinakaran Government Advocate

COMMON ORDER

The petitioner is before this Court against the respective Assessment Orders all dated 03.02.2021 confirming the demand of GST for the Assessment Years 2017-2018, 2018-2019, 2019-2020.

2. The petitioner appears to be a dealer in scrap steel and had transactions

with the following dealers during the respective Assessment Years:

Sl.No.	Assessment Years	Dealer's Name
1	2017-2018	Tvl.R.R.Trading
2	2018-2019	Tvl.Asian Steels
3	2019-2020	Tvl.Lucky Scrap Traders

3. Details of the credit availed by the petitioner from different dealers are as under:-

Sl.No.	W.P.Nos and Assessment Years	Name and GSTIN (As per impugned order)	ITC Availed
1	W.P.No.10966 of 2021 (2017-2018)	1.Tvl.RR Trading & Co (33EDYPS0948Q1ZC)	Rs. 75,44,264/-
		2.Tvl.Asian Steel Traders (33AMDPS4215Q1ZQ)	Rs. 13,38,994/-
		3.Tvl.Lucky Scrap Traders (33BKXPA5853M1ZL)	Rs. 7,28,200/-
2	W.P.No.10968 of 2021 (2018-2019)	1.Tvl.RR Trading & Co (33EDYPS0948Q1ZC)	Rs. 59,68,106/-
		2.Thangam Steel (33FRRPS2935B1ZL)	Rs. 41,21,864/-
		3.Asian Steel (33AMDPS4215Q1ZQ)	Rs. 83,38,560/-
		4.Gayathri traders (33BBTPA4294F1ZM)	Rs. 7,63,272/-

Sl.No.	*W.P.Nos and Assessment Years*	*Name and GSTIN (As per impugned order)*	*ITC Availed*
		5.Steel World (33BGMPA9161P1ZY)	Rs. 3,21,304/-
		6.Sun Steel (33BHDPP5225K1ZB)	Rs. 1,07,060/-
		7.Aarthi Enterprises (33BRDPG6857J1ZL)	Rs. 1,58,148/-
		8.Thirumalai Trading (33DFMPM5137L1Z2)	Rs. 58,374/-
		9.Sree Sathya Traders (33DVIPP1053C2ZX)	Rs. 91,700/-
3	W.P.No.10973 of 2021 (2019-2020)	1.Tvl.RR Trading & CO (33EDYPS0948Q1ZC)	Rs. 1,16,082/-
		2.Thangam Steel (33FRRPS2935B1ZL)	Rs. 26,44,134/-
		3.Asian Steel (33AMDPS4215Q1ZQ)	Rs. 19,47,576/-
		4.Kavery Enterprises (33ABCPE4076B3ZA)	Rs. 1,90,232/-

4. The case of the respondents Department appears to be that petitioner had transactions with non-existing dealers who merely passed an ineligible credit and that none of the suppliers had paid any GST in cash and were part of a larger clique who had indulged in passing ineligible credit which has been sought to be denied by the respondents Department in the impugned order.

5. The fact remains that earlier summons were issued by the Central Authority under Section 70 of the Central Goods and Services Tax (CGST) Act, 2017, although the petitioner is assessed to the respondents State Authorities.

6. Subsequently, statements were recorded from the petitioner and the Show Cause Notices were issued for the respective Assessment Years seeking to deny the Input Tax Credit availed by the petitioner on the strength of invoices raised by the above mentioned dealers on the petitioner who were not in existence.

7. In these writ petitions, the learned counsel for the petitioner submits that the petitioner has made payment in cash / cheques to the respective dealers who had encashed the cheques issued by the petitioner and therefore there is no justification in imposing tax liability on the petitioner by asking the petitioner to reverse the Input Tax Credit, merely because, it is perception of the respondents Department that the above mentioned dealers have resorted to circular trading.

8. In support of these writ petitions, the learned counsel for the petitioner had produced copies of invoices and the returns downloaded by the petitioner in

Form GSTR-2A, by virtue of which, the petitioner was eligible to avail Input Tax Credit in the GST borne by the petitioner for the respective Assessment Years.

9. It is submitted that the 1st respondent / State Tax Officer alleged that these suppliers are bill traders and hence the Input Tax Credit availed by the petitioner on the strength of tax invoice is ineligible. It is submitted that the petitioner filed tax invoice, e-way bill, Bank Statements and GSTR-2A returns. However, none of the documents were appreciated by the respondents. It is submitted that the reasons stated to reject the claim is totally against the facts and violation of principles of natural justice.

10. It is submitted that the suppliers filed monthly returns during the relevant period and the same was reflected in GSTR-2A and that there is no response from the respondents to reject the GSTR-2A return. Hence, the reversal of credit is nothing but a double taxation. It is submitted that the orders were passed against the said suppliers under Section 122 of the Central Goods and Services Tax (CGST) Act, 2017. It is therefore submitted that since orders under Section 122 of the Central Goods and Services Tax (CGST) Act, 2017

were passed against the said suppliers, there is a presumption that these suppliers were traceable and in existence.

11. On the other hand, the learned Government Advocate for the respondents would draw attention to a communication received from the then Principal Secretary / Commissioner of Commercial Taxes, Chennai – 600 005 addressed to the Additional Commissioner (ST) Intelligence-I, Chennai, the Joint Commissioner (ST) Intelligence-II Chennai, the Joint Commissioner (ST) Intelligence, Coimbatore and the Joint Commissioner (ST) Intelligence, Trichy, wherein, they have listed out the names of supplying dealers with whom the petitioner had transactions. It is submitted that none of the dealers with whom the petitioners' transactions were *bona fide* transactions and thus the petitioner was indulging in passing Input Tax Credit to facilitate evasion of tax.

12. That apart, the learned Government Advocate for the respondents would submit that entire tax liability has been borne by the petitioner out of the Input Tax Credit availed by the petitioner which was passed on by the respective dealers.

13. The learned Government Advocate for the respondents further submits that some of the dealers had also approached this Court by way of Writ Petition in W.P.No.3435 of 2024. It is therefore submitted that there is no merits to challenge in the impugned order. The petitioner has an alternate remedy before the Appellate Commissioner in terms of Section 107 of the Central Goods and Services Tax (CGST) Act, 2017 and therefore these writ petitions are liable to be dismissed.

14. The learned Government Advocate for the respondents would place reliance on the decision of this Court in **M/s.Lucky Traders** Vs. **The State Tax Officer, Group – IX, Office of the Deputy Commissioner (ST), Inspection – II, First Floor, PAPJM Buildings, No.1, Greams Road, Chennai – 600 006** in W.P.No.3435 of 2024 vide order dated 15.02.2024 and the decision of the Division Bench of this Court in **Sahyadri Industries Limited** Vs. **State of Tamil Nadu,** [2023] 115 GSTR 320 (Mad.).

15. The learned Government Advocate for the respondent would submit that although the said decision rendered in the context of the Tamil Nadu Value Added Tax (TNVAT) Act, 2006, this would apply to the facts of the case, and

therefore on merits it is submitted that the petitioner has no case for interference. Hence, prays for dismissal of the writ petitions.

16. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondents.

17. The law on the subject has been settled by the Division Bench of this Court in **Sahyadri Industries Limited** Vs. **State of Tamil Nadu,** [2023] 115 GSTR 320 (Mad.). Although the said decision was rendered in the context of Tamil Nadu Value Added Tax (TNVAT) Act, 2006, the ratio therein will squarely apply to the facts of the case under the Central Goods and Services Tax (CGST) Act, 2017 and the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017.

18. The fact remains that the petitioner has discharged the entire tax liability from and out of the Input Tax Credit availed from the invoices raised by the above mentioned suppliers. There is no payment of tax in cash by the petitioner. *Prima facie,* there are indications that the petitioner acted as an accessory to pass an ineligible Input Tax Credit.

19. In view of the same, I do not find any merits in the present writ petitions. Therefore, these Writ Petitions are liable to be dismissed and are accordingly dismissed. However, liberty is given to the petitioner to file a Statutory Appeal before the Appellate Commissioner.

20. These Writ Petitions are dismissed with the above liberty. No costs. Connected Writ Miscellaneous Petitions are closed.

02.01.2025

Neutral Citation: Yes / No

jas / arb

To:

1.The State Tax Officer,
Central Intelligence Cell,
Intelligence – II, PAPJM Buildings,
Second Floor, Greams Road,
Chennai – 600 006.

2.The Assistant Commissioner (ST),
Alandur Assessment Circle,
I.C.T & R.D. Buildings, (South Tower),
IIIrd Floor, Nandanam,
Chennai – 600 035.

C.SARAVANAN, J.

jas / arb

Pre-delivery Common Order made in
W.P.Nos.10966, 10968 and 10973 of 2021
and
W.M.P.Nos.11597, 11599 and 11600 of 2021

02.01.2025