IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.P.No. 9042 of 2024
and WMP Nos.10048 and 10050 of 2024

M/s. Raj Construction,
Rep. by its Partner M.Senthilraj,
2/80A, Sekkarapatty,
Vaiyappamalai Via Marapparai Post,
Trichengode, Namakkal – 637 410. .. Petitioner

vs

1.Union of India
Rep. by its Secretary,
Ministry of Finance, Department of Revenue
North Block, New Delhi – 110 001.

2.Central Board of Indirect Taxes and Customs
Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.

3.The Commissioner
Under Secretary to the Government of India,
Central Board of Indirect Taxes and Customs,
Ministry of Finance, New Delhi.

4.The Assistant Commissioner of CGST & Excise,
Erode – II Division,
O/o. The Assistant Commissioner of
GST and Central Excise,
No.81, Bharathi Nagar, Soolai,

Erode – 638 001. .. Respondents

Prayer in WP.No.9042 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, call for the records on the files of the 4th respondent in Order-in-Original No.07/2023-GST (AC) dated 01.12.2023 and consequently issued FORM -DRC-07 bearing Ref. No.ZD330224087527B dated 15.02.2024 and quash the same.

For Petitioner : Mr.S.Kannan

For Respondents : Mr.Rajnish Pathiyil, (for R1 to R3)
Senior Panel Counsel

Mr.C.Harsha Raj, (for R4)
Special Government Pleader

ORDER

(Made by Dr. ANITA SUMANTH.,J)

This matter is listed today under the caption 'for clarification', as the learned counsel for the petitioner has, inadvertently, withdrawn the Writ Petition on 09.07.2025 and the issue involved in this Writ Petition is covered by a decision of this Court.

2. This Writ Petition challenge order-in-original passed in terms of the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 (in short 'Act') in respect of belated claim of input tax credit violating Section 16(4) of the Act.

3. Learned counsel appearing for the assessee as well as the

learned counsel appearing for the Commercial Taxes Department are ad idem in that, the claim for input tax in this matter relates to financial year 2018-19 and that the claim has been made prior to 30.11.2021. Hence the relief is available to the petitioner in light of Section 16(5) of the Goods and Services Tax Act, 2017, introduced vide Section 118 of Finance Act, 2024. They also rely upon order dated 20.07.2025 passed by this Court in W.P.Nos.3457 of 2022 etc. batch, allowing an identical issue.

4.In light of the aforesaid, the impugned order is quashed and the the Writ Petition is allowed. We clarify that if any portion of the impugned demand had been remitted, the assessee is not entitled to refund of the same, having regard to Circular No.237/31/2024-GST dated 15.10.2024. No costs. Connected Miscellaneous Petitions are closed.

[A.S.M., J] [N.S., J]
11.07.2025

Index:Yes/No
Speaking Order
Neutral Citation:Yes
sl

DR. ANITA SUMANTH, J.
and
N.SENTHILKUMAR, J.

sl

To

1.The Secretary,
Union of India
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North Block, New Delhi – 110 001.

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Ministry of Finance,
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