IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19813 of 2025
and
W.M.P.No.22272 of 2025

Sharda Motors Industries Limited,
Represented by its Authorized Signatory,
Mr.V.Pushparaj,
G.20, Sipcot Industrial Park,
Irungattukottai, Sriperumbudur-602105. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Sriperumbudur Assessment Circle,
Station:No.4/109, Varadharajpuram,
Nazarathpet, Chennai – 600 123. ... Respondent

Prayer: 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 Impugned Assessment Order in TIN:33921661341/2010-11, dated 24.03.2025 passed by the respondent and quash the same.

For Petitioner : Mr.Raghav Rajeev

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

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ORDER

The petitioner is before this Court against the impugned order dated 24.03.2025 passed for the tax period 2010-2011 under Section 27(4) of the TNVAT Act, whereby an amount of Rs.21,21,146/- was imposed as penalty which was adjusted from Rs.44,07,569/- being the excess tax paid by the petitioner during the aforesaid period.

2. Relevant portion of the impugned order, insofar as the present challenge is concerned, is extracted below:-

"2) ITC on purchase from RC cancelled dealers Rs.13,70,606/- Turn over Rs.3,44,05,451/-

Sl. No.	***Details***	***Turnover (Rs)***	***ITC (Rs)***	***Penalty u/s 27(4) (Rs.)***
1.	*Revenue Mismatch ITC to be disallowed*	*7,23,666/-*	*43,491/-*	*65,237/-*
2.	*ITC on purchase from RC Cancelled dealers*	*3,44,05,451/-*	*13,70,606/-*	*20,55,909/-*

Detail	***Tax (Rs)***	***Penalty (Rs)***
Due	*14,14,097/-*	*21,21,146/-*
Paid	*58,21,666/-*	*0/-*
Excess	**44,07,569/-*	**21,21,146/-*

3. The impugned order dated 24.03.2025 has been passed pursuant to a remand order of the Appellate Commissioner dated 27.05.2024. Earlier, the petitioner had been issued a Show Cause Notice dated 06.12.2021. The aforesaid show cause notice proceedings ultimately culminated in an order dated 11.03.2022.

4. The petitioner had unsuccessfully challenged the aforesaid order dated 11.03.2022 before this Court in W.P.No.11812 of 2022. By an Order dated 18.04.2023, the writ petition was dismissed by granting liberty to the petitioner to avail the appellate remedy, which the petitioner availed.

5. Pursuant to the same, the Appellate Commissioner passed an order dated 27.05.2024, whereby the case was remitted back to the Assessing Officer with the following observations / directions:-

> In the case in hand, the appellant filed sample copy of invoices with respective purchase order, material receipt note, purchase voucher, gate inward register, bank statement, extract from vendor ledger for the year 2010-11 to establish the acutal receipt of goods.
>
> In view of the above and considering the principles of natural justice, one more opportunity is hereby granted to

prove the genuineness of the transaction with documentary evidences and hence the Reversal of ITC in the impugned Assessment Order is set aside and remanded to the Assessing Officer for fresh disposal after affording reasonable opportunity to the appellant. As the appellant filed only sample copies of the documents cites supra, they are directed to file the entire documents available with them before the Assessing Officer for consideration in this regard. The assessing officer is at liberty to decide the issue based on the veracity and genuiness of the documentary evidences filed by the appellant and pass appropriate orders in accordance with law, after affording reasonable opportunity to the appellant. Accordingly, the appeal is " Remanded".

(b) Levy of penalty @ 150%

In as much as the reversal of ITC itself is set aside and remanded back to the Assessing Officer, the consequent levy of penalty is also set aside and remanded back to the Assessing Officer for fresh consideration as per the applicable provisions of the Act. Accordingly, this portion of the appeal is " Remanded".

6. Pursuant to the aforesaid order dated 27.05.2024 of the Appellate Authority namely Deputy Commissioner (CT), Chennai-1, the petitioner was issued with a personal hearing Notice dated 19.02.2025 in response to which, the petitioner vide letter dated 28.02.2025 requested the respondent to furnish the necessary documents with regard to the reversal of ITC and requested for further time to respond.

7. Relevant portion of the aforesaid letter dated 28.02.2025 of the

petitioner is extracted hereunder:-

> *3. In this regard, with regard to the proposal to reverse the ITC on purchases made from RC cancelled dealers to the tune of Rs.13,70,606/-, we respectfully submit that the details pertaining to the invoice number and invoice date were not furnished for the proposed ITC reversal to the tune of Rs.6,69,069/- and in the Notices dated 05.05.2021 and 06.12.2021. It is further submitted that we have not been furnished with the orders cancelling the registration of our selling dealers, therefore, we are unaware of the actual date of cancellation of registration of our selling dealers. Kindly note that the said documents/details are required for us to effectively defend our case before your good office.*
>
> *4. In the light of the same, we request your good office to kindly furnish the aforesaid details and thereafter, grant us 15 days' time to effectively reply to the Personal Hearing Notice.*

8**.** However, after the documents sought for by the petitioner were furnished by the respondent, the petitioner did not file any further reply. This breach has culminated in the impugned order of the Respondent.

9**.** The learned counsel for the petitioner would place reliance on the decision rendered in **M/s.Bindal Agencies Private Limited, (Represented by its Managing Director, Mr.Ravi Saraf)** Vs. **The State Tax Officer (ST), Chennai** rendered in **W.P.No.2169, 2172, 2175 and 2178 of 2022**, dated 24.09.2024, wherein this Court held as follows:-

"7. Having considered the submissions made by the learned counsel for the petitioner and the learend Government Advocate for the respondent and having perused the notices that preceded the impugned order and the reply of the petitioner and the impugned orders, I am of the view this is a fit case for quashing the impugned order and remitting the case back to the respondent to pass a fresh order on merits after furnishing copies of the orders cancelling the registration certificate of the respective dealers. This exercise may be carried out by the respondent within a period of 30 days from the date of receipt of a copy of this order. It is for the petitioner to thereafter file a fresh/additional reply within a period of 30 days thereafter. The impugned order which stands quashed shall be treated as addendum to the Show Cause Notice dated 05.07.2016. It is open for the Assessing Officer shall pass fresh orders on merits after considering the decision of the Division Bench of this Court in the case of Tvl.Sahyadri Industries Ltd Vs.The State of Tamil Nadu,Rep by its The Joint Commissioner (CT), Salem Division, (Now Erode Division), Erode vide order dated 18.04.2023 in T.C.Nos.19 of 2022 etc., batch."

10**.** Defending the impugned order, the learned counsel for the respondent submits that the petitioner did not participate in the assessment proceedings despite the remand order and personal hearing opportunity and therefore this writ petition is liable to be dismissed.

11. It is submitted by the learned counsel for the respondent that even if the registration were not cancelled, it did not preclude the petitioner from producing all the records necessary to substantiate the claim of having rightly availed Input Tax Credit.

12. It is further submitted that the petitioner ought to have furnished the necessary invoices, e-delivery challans and bank transaction details to substantiate the same. It is stated that instead of producing the relevant documents, the petitioner has merely relied on the failure of the respondent to furnish the details relating to the cancellation of the GST registration of the petitioner's supplier.

13. The learned Special Government Pleader (T) for the respondents submits that the impugned order is well reasoned and therefore does not warrant any interference and therefore this Writ Petition is liable to be dismissed in the light of th decisions of the Hon'ble Supreme Court in **Singh Enterprises** Vs. **Commissioner of Central Excise**, **Jamshedpur and others**, (2008) 3 SCC 70 and in **Commissioner of Customs and Central Excise** Vs. **Hongo India Private Limited and another**, (2009) 5 SCC 791 and also in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

14. I have considered the arguments advanced by the learned counsel for

the petitioner and the learned Special Government Pleader for the respondent.

15. This is the second round of litigation before this Court. Even on the earlier occasion, this Court was not inclined to entertain the writ petition, and therefore granted liberty to the petitioner to file an appeal before the Appellate Authority. Before the Appellate Authority, the petitioner merely filed few documents and therefore, the case was remitted back to the original authority / respondent to pass a fresh order after hearing the petitioner.

16. The petitioner ought to have been ready with all the documents to justify that the petitioner was indeed entitled to Input Tax Credit. The scheme under the respective GST enactments is clear that the Input Tax Credit that can be availed is provisional and can be denied. The petitioner has not produced any documents to substantiate that the Input Tax Credit was validly available by the petitioner.

17. The decision of the Hon'ble Supreme Court in ***State of Karnataka vs. M/s Ecom Gill Coffee Trading Private Limited*** in ***Civil Appeal No. 230 of 2023*** also reiterates the above, which was also subsequently followed by this

Court in ***Tvl. Sahyadri Industries Ltd vs. The State of Tamil Nadu*** in ***T.C.No.19 of 2022***. Therefore, there is no procedural irregularity committed by the respondent while passing the impugned order. Therefore, it does not warrant any interference. At best, the petitioner can be given one another liberty to file an appeal against the impugned order before the Appellate Authority.

18. Accordingly, this Writ Petition stands dismissed with liberty to the petitioner to file an appeal before the Appellate Authority against the impugned Order dated 24.03.2025. Consequently, connected miscellaneous petition is closed. No costs.

19.11.2025

Neutral Citation : Yes / No

nvi / raja

To

The Assistant Commissioner (ST)
Sriperumbudur Assessment Circle,
Station:No.4/109, Varadharajpuram,
Nazarathpet, Chennai – 600 123.

C.SARAVANAN, J.

nvi/raja

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