IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.20003 of 2025
and
W.M.P.Nos.22555 and 22556 of 2025

M/s.Ahmed Overseas Corporation,
Represented by its Partner Mr.K.Ahmed Asfar,
No.28/26,NA, V.V.Koil Street,
Periamet, Chennai-600 003. ...Petitioner

Vs.

1. The Superintendent,
Range V, Parrys Chennai North Commissionerate,
1st Floor, Newry Towers,
2054-I, II Avenue, Anna Nagar,
Chennai-600 040.

2. The Superintendent,
Head Quarters Preventive Unit,
Chennai North Commissionerate,
Office of Principal Commissioner of GST & Central Excise,
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in Show Cause Notice No.473/2024-25-HPU dated 01/08/2024 and the consequential Order-In-Original No.03/2025 dated 16/01/2025 passed by the second respondent and quash the same and further direct the respondents to restore the availed Input tax credit on the supplies made by M/s.Javeed International, Chennai since the petitioner had complied with the conditions as envisaged under Section 16 of the Goods and Service Tax Act, 2017.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mr.S.Gurumoorthy
Senior Standing Counsel

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ORDER

Mr.S.Gurunoorthy, learned Senior Standing Counsel, who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this writ petition is to the order dated 16.01.2025 passed by the respondent and to quash the same.

3. The learned counsel for the petitioner would submit that without satisfying ingredients under Explanation-2 to Section 74 of the CGST Act, 2017, show cause was issued by the 2nd respondent, for which the petitioner filed detailed objections on 10.12.2024. Subsequently, the 2nd respondent passed the impugned order dated 16.01.2025 without satisfying the conditions for invoking the extended period of limitation.

4. The learned Senior Standing Counsel for the respondents would submit that the issue involved is mixed question of law and facts and the same has to be adjudicated before the appellate authority. But, the petitioner without exhausting the appellate remedy has approached this Court by way of this Writ Petition.

5. Heard both sides. Perused the records.

6. Considering the facts and circumstances of the case and submissions made by the learned counsel appearing on either side, in the present case reply was filed by the petitioner thereafter opportunity of

personal hearing was also provided to the petitioner. A perusal of the order impugned herein would go to show that the authorities concerned have elaborately dealt with the reply filed by the petitioner. Now the grievance of the petitioner is that the authorities have not considered their objections in a proper perspective. If that is the case, this Court is of the view that the right course available to the petitioner is to file an appeal before the appellate authority challenging the impugned order.

7. In view of the same, this Writ Petition is dismissed with liberty to the petitioner to file an appeal before the appellate authority, within a period of four weeks from the date of receipt of a copy of this order and on such appeal being filed the appellate authority shall take appeal on file without insisting upon the period of limitation and pass orders as expeditiously as possible. No costs.

05.06.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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