IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.Nos.20157 & 20163 of 2025**
**and**
**W.M.P.Nos.22723, 22730, 22733 & 22735 of 2025**

M/s SMG Enterprises and Engineering Contractor
(Represented by its Proprietor M. Srinivasan)
Plot No.100 Flat No.AI 18, 2nd Floor, 4th Avenue
Shanthi Colony Anna Nagar Chennai -600 040.
...Petitioner in both W.Ps.

Vs.

The Assistant Commissioner (ST) (FAC)
Intelligence -I Commercial Taxes Building
PAPJM Building Room No 133 1st Floor
No.1 Greams Road, Chennai 600 006. ..Respondent

**Prayer in W.P.No.20157 of 2025**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the files of the Respondent herein in FORM GST DRC-07 vide reference No. ZD330824233318E dated 27.08.2024 along with detailed order in GSTIN 33AVJPS1910R1Z4 dated 27.08.2024 for the tax period 2019- 20 and to quash the same.

**Prayer in W.P.No.20163 of 2025**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the files of the respondent herein in order of rejection of application for rectification vide reference No.ZD330125211482Z dated 24.01.2025 along with detailed order in GSTIN 33AVJPS1910R1Z4/2019-20 dated 24.01.2025 for the tax period April, 2019 to March, 2020 and to quash the same.

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|---|---|---|
| For Petitioner in both W.Ps. | : | M/s.S.Vishnupriya |
| For Respondent in both W.Ps. | : | Ms..Amirta Poonkodi Dinakaran<br>Government Advocate (T) |

## Common Order

Heard M/s.S.Vishnupriya learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran learned Government Advocate (T) who takes notice on behalf of the respondent. With consent, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

**2.** The challenges in Writ Petition No.20157 of 2025 are to the orders passed by the respondent dated 27.08.2024 along with detailed order dated 27.08.2024 for the tax period 2019 - 20 and to quash the same.

**2.1** Insofar as W.P.No.20163 of 2025 is concerned, the petitioner has challenged the order of rejection of application for rectification dated 24.01.2025 along with detailed order dated 24.01.2025 for the tax period April, 2019 to March, 2020 and to quash the same.

**3.** M/s.S.Vishnupriya, the learned counsel appearing for the petitioner would submit that a notice in Form DRC-01 dated 21.11.2023 was issued by the respondent, to which, the petitioner filed reply dated 22.06.2024, thereafter, personal hearing opportunity was granted to the petitioner and the petitioner appeared for the personal hearing and explained that they have not utilized the IGST credit, however, the respondent without taking into consideration of the said submission/explanation, proceeded to pass the impugned orders dated 27.08.2024 stating as if the petitioner has failed to file the reply along with supporting documents.

**3.1** Further, the learned counsel for the petitioner would submit that the petitioner on receipt of a show cause notice/reminder notices, filed replies dated 19.12.2023, 08.06.2024, 12.06.2024, 22.06.2024 and 24.06.2024 and that when the petitioner has filed the aforesaid reply and also explained the fact that the credit was taken due to error and the same was promptly rectified in May, 2019 by way of reversal of credit to the tune of Rs.4,64,20,000/-; that even in the Rectification Application, the said aspect was pointed out, the respondent ought to have rectified the above error apparent on the face of record, however, by virtue of the impugned order dated 24.01.2025 rejected the Rectification Application as well. Hence, the learned counsel, prays for setting aside both the impugned orders dated 27.08.2024 and 24.01.2025.

**4.** The learned Government Advocate for the respondent would submit that though the petitioner has filed reply, since the same is not supported with relevant documents, the same was not taken into consideration by the respondent while passing the impugned orders, and if the petitioner is aggrieved by the impugned orders, the only recourse available to the petitioner is to file an Appeal before the Appellate Authority and hence, prays for dismissal of the Writ Petitions.

**5.** I have given due considerations to the submission made by the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

**6.** In the present case, it is seen that notice in DRC-01 dated 21.11.2023 followed by three reminder notices affording an opportunity of personal hearing opportunity were issued to the petitioner. The petitioner filed their reply dated 19.12.2023, 08.06.2024, 12.06.2024, 22.06.2024 and 24.06.2024 and also appeared for the personal hearing. Thereafter, assessment order came to be passed against the petitioner, rejecting the petitioner's claim on the ground that the petitioner has failed to adduce relevant documents. Though it is the contention of the petitioner that the turnover for the disputed period was "NIL'; that due to clerical error committed by the petitioner's Chartered Accountant, ITC was wrongly claimed and the same was promptly rectified in May 2019 by way of reversal of credit to the tune of Rs.4,64,20,000/-, and that they are not liable to pay any tax, in the absence of any supporting documents produced by the petitioner, the respondent cannot be expected to pass any orders on premises and conjectures. Had the petitioner produced relevant document, in support of their claim, obviously, the respondent, based on those materials, would have dropped the proposals contained in the show cause notice, and the petitioner, having failed to do so, cannot make a hue and cry that the impugned orders passed by the respondent is contrary to law and facts of the case and same are not sustainable in law.

**6.1** Further, this Court would like to point out that unless and until, the assessment orders passed by the Assessing Officer suffers from any violation of principles of natural justice or ex facie illegal, this Court sitting under Article 226 of the Constitution of India cannot interfere with the same and as rightly pointed out by the learned Government Advocate the only efficacious remedy available to the petitioner is to agitate their issue before the Appellate Authority by way of Appeal. Therefore, this Court is not inclined to interfere with the impugned orders.

**7.** In the result, the Writ Petitions fails and the same are dismissed. However, if it is the grievance of the petitioner that their reply was not taken into consideration by the respondent in a proper manner and that the petitioner is in possession of supportive documents, it is open to them to agitate their claim before the Appellate Authority by way of an Appeal.

**10.06.2025**

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Index : yes/no
Neutral Citation : yes/no

To
The Assistant Commissioner (ST) (FAC)
Intelligence -I Commercial Taxes Building
PAPJM Building Room No 133 1st
Floor No 1 Greams Road, Chennai 600 006.

**Krishnan Ramasamy,J.,**

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