IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.Nos.24133 & 23012 of 2025
and W.M.P.Nos.25840 & 25842 of 2025

M/s.V.P.C and Co.,
Represented by Rajappa Ramesh,
38, C.C.Road, Dhadubaikuttai,
Salem.

...Petitioner in both W.Ps

Versus

1.The Deputy Commissioner (CT),
Salem.

...1st Respondent in W.P.No.24133 of 2025

2.The State Tax Officer,
Inspection III,
Salem (Intelligence),
Salem.

...2nd Respondent in W.P.No.24133 of 2025
and Sole Respondent in W.P.No.23012 of 2025

Prayer in W.P.No.24133 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the record on the files of the 1st respondent in Reference No.ZD3306251139569 dated 12.06.2025 and quash the same as invalid and illegal.

Prayer in W.P.No.23012 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the record on the files of the respondent in GSTIN: 33AAFFV2650Q1ZS/2017-18 dated

26.09.2024 and quash the same as invalid and illegal.

For Petitioner in both W.Ps : Mr.V.Srikanth
For Respondents in both W.Ps : Ms.P.Selvi, Government Advocate (Tax)

COMMON ORDER

Ms.P.Selvi, learned Government Advocate (Tax) takes notice for the respondents.

2. With the consent of both sides, these writ petitions are taken up for final disposal at the admission stage itself.

3. The relief sought in W.P.No.24133 of 2025 is to quash the Order dated 12.06.2025 bearing Reference No.ZD3306251139569 passed by the 1st respondent.

4. The relief sought in W.P.No.23012 of 2025 is to quash the Order dated 26.09.2024 bearing GSTIN: 33AAFFV2650Q1ZS/2017-18 passed by the respondent.

5. The brief facts of the case are that the petitioner is engaged in the business of supply of scraps. On 26.02.2024, the petitioner's business premises was inspected by the Officers of the Salem Intelligence Wing, pursuant to which, the State Tax Officer, Salem (2nd respondent in W.P.No.24133 of 2025 & respondent in W.P.No.23012 of 2025) issued a Notice in Form GST DRC-01A dated 01.07.2024 to the petitioner, pointing out the following discrepancies:

(i) Non-reversal of Excess Claim of ITC in GSTR-3B

(ii) Non-payment of tax under RCM on Freight Outward

(iii) Non-reversal of ITC on Trade Creditors

(iv) Non-payment of interest on belated filing of GSTR-3B

(v) Non-reversal of ITC on Blocked ITC

6. Subsequently, the State Tax Officer, Salem issued the Show Cause Notice in Form GST DRC-01 dated 31.07.2024. Further, the State Tax Officer, Salem vide Reminder Notices dated 31.08.2024 & 10.09.2024, called upon the petitioner to appear for personal hearing on 06.09.2024 & 16.09.2024 respectively. The petitioner sent its Reply to the Show Cause Notice in Form GST DRC-06 on 16.09.2024. Thereafter, the State Tax

Officer, Salem passed an Assessment Order dated 26.09.2024, confirming the proposals in the Show Cause Notice and directing the petitioner to pay a sum of Rs.1,32,28,938/-. After the receipt of Assessment Order, the petitioner filed an Application dated 25.12.2024 before the State Tax Officer, Salem for rectification of Assessment Order. However, the State Tax Officer, Salem vide Order dated 07.02.2025, rejected the petitioner's Application on the ground that the Proper Officer had issued the Adjudication Order only after considering the petitioner's response and no clerical or arithmetical errors are evident.

7. Under these circumstances, as against the Assessment Order dated 26.09.2024, the petitioner preferred an Appeal dated 04.06.2025 before the Deputy Commissioner (CT), Salem (1st respondent in W.P.No.24133 o 2025), but, the same was rejected by the Deputy Commissioner (CT), Salem vide Order dated 12.06.2025 in Form GST APL-02 on the ground that "Delay in submission of Appeal". Hence, the petitioner has filed the present writ petitions before this Court.

8. The learned counsel for the petitioner submitted that prior to the

passing of Order dated 12.06.2025 in Form GST APL-02, the petitioner was not heard by the Deputy Commissioner (CT), Salem. Therefore, it is submitted that the said order suffers from violation of the principles of natural justice.

8.1. It is further submitted by the learned counsel for the petitioner that the petitioner could not file the Appeal in time because the petitioner had filed the Application for Rectification of Assessment Order with the hope that the State Tax Officer, Salem would rectify the Assessment Order since the period between the date of purchases and 31.03.2018 was less than 180 days and thus, it was not necessary for reversal of ITC.

8.2. The learned counsel for the petitioner also submitted that the petitioner is ready and willing to pay 10% of the disputed tax over and above the 10% of disputed tax paid towards statutory pre-deposit for filing the Appeal, if this Court is inclined to quash the Order dated 12.06.2025 in Form GST APL-02 passed by the Deputy Commissioner (CT), Salem and condone the delay in filing the Appeal.

9. The learned Government Advocate (Tax) appearing for the respondents submitted that if the petitioner's Appeal is restored on the file of 1st respondent, the Deputy Commissioner (CT), Salem would take up the same and pass appropriate orders, within a time frame to be fixed by this Court.

10. Heard the learned counsel on either side and perused the materials available on record.

11. As far as this case is concerned, as against the Assessment Order dated 26.09.2024 passed by the State Tax Officer, Salem, the petitioner preferred an Appeal before the Deputy Commissioner (CT), Salem on 04.06.2025. However, the petitioner's Appeal was rejected on the ground that "Delay in submission of Appeal". The reason stated by the petitioner for belated filing of Appeal appears to be genuine. Further, the petitioner is willingly come forward to pay 10% of the disputed tax, over and above the 10% of disputed tax paid towards statutory pre-deposit for filing the Appeal.

12. Considering the above facts and circumstances of the case and

having regard to the submissions made by the learned counsel on either side, W.P.No.24133 of 2025 is disposed of with the following directions:

(i) The Order dated 12.06.2025 in Form GST APL-02 impugned in W.P.No.24133 of 2025 is quashed and the delay in filing the Appeal before the Deputy Commissioner (CT), Salem is condoned and consequently, the petitioner's Appeal is restored on the file of the Deputy Commissioner (CT), Salem on condition that the petitioner shall pay 10% of the disputed tax to the respondent-Department, within a period of four weeks from the date of receipt of a copy of this order.

(ii) After making the aforesaid payment, the petitioner shall produce the payment proof before the Deputy Commissioner (CT), Salem.

(iii) Upon production of such payment proof, the Deputy Commissioner (CT), Salem shall take up the petitioner's Appeal and pass appropriate orders on merits and in accordance with law, if it is otherwise in order, within a period of two weeks thereafter.

13. In view of the directions which have been issued in

W.P.No.24133 of 2025, W.P.No.23012 of 2025 is dismissed as no further adjudication is required in the same. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.07.2025

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Deputy Commissioner (CT),
Salem.

2.The State Tax Officer,
Inspection III,
Salem (Intelligence),
Salem.

KRISHNAN RAMASAMY, J.

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W.P.Nos.24133 & 23012 of 2025

09.07.2025