IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2025

CORAM
THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.27910 & 13185 of 2024 and 31048 of 2025
& W.M.P.Nos.30435, 30436, 30437, 14327, 14328 & 14330 of 2024 & 34795 of 2025

W.P.No.27910 of 2024:

M/s.Flextronics Technologies (India) Private Limited,
Rep. by its Authorized Signatory C.Siva Sankar,
Plot No.3, SIPCOT Industrial Park Phase II,
Sunguvarchattiram, Sandavellore C Village,
Sriperumbudur, Kancheepuram, Tamil Nadu - 602 106. ... Petitioner

Vs.

1.Assistant Commissioner of GST & Central Excise,
Sriperumpudur Division, Chennai Outer Commissionerate,
C-48 TNHB, Anna Nagar, Chennai - 600 040.

2.Deputy Commissioner Audit-II Commissionerate,
Office of the Commissioner of GST and Central Excise,
Audit-II Commissionerate,
692, M.H.U.Complex, Nandanam, Chennai - 600 035.

3.The Assistant Commissioner of GST and Central Excise,
Legal Section, HQRS, Chennai Outer Commissionerate,
C-48, TNHB, Anna Nagar, Chennai - 600 040. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to Letter bearing DIN: 20240859XL0000210078 dated 05.08.2024 issued by the first respondent and quash the same and direct the first respondent to accept the adjustment made in Form GSTR-3B for July 2021 in line with para 3.2 of CBIC Instruction No.1/2022-GST, dated 07.01.2022.

W.P.No.13185 of 2024:

M/s.Flextronics Technologies (India) Private Limited,
Rep. by its Authorized Signatory C.Siva Sankar,
Plot No.3, SIPCOT Industrial Park Phase II,
Sunguvarchattiram, Sandavellore C Village,
Sriperumbudur, Kancheepuram, Tamil Nadu - 602 106. ... Petitioner

Vs.

1.Deputy Commissioner Audit-II Commissionerate,
Office of the Commissioner of GST and Central Excise,
Audit-II Commissionerate,
692, M.H.U.Complex, Nandanam, Chennai - 600 035.

2.Additional Commissioner, Audit-II Commissionerate,
Office of the Commissioner of GST and Central Excise,
Audit II Commissionerate,
No.1775, Jawaharlal Nehru Inner Ring Road,
692, M.H.U.Complex, Nandanam, Chennai - 600 035.

3.Commissioner of Central Excise and GST
Chennai Outer Commissionerate, Newry Towers,
No.2054, Block I, II Avenue, 12th Main Road,
Anna Nagar, Chennai - 600 040.

4.Deputy/Assistant Commissioner of GST & Central Excise,
Sriperumpudur Division, Chennai Outer Commissionerate,
C-48 TNHB, II Avenue, I & II Floor,

Anna Nagar, Chennai - 600 040.

5.Central Board of Indirect Taxes and Customs,
815, Nehru Place, Market Road, New Delhi - 110 019.
... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to Letter bearing DIN: 20240459XS000000DB4C dated 24.04.2024 issued by the first respondent and quash the same and direct the first respondent to accept the adjustment made in Form 3B for June 2021 in line with para 3.2 of CBIC Instruction No.1/2022-GST, dated 07.01.2022.

W.P.No.31048 of 2025:

M/s.Flextronics Technologies (India) Private Limited,
Rep. by its Authorized Signatory C.Siva Sankar,
Plot No.3, SIPCOT Industrial Park Phase II,
Sunguvarchattiram, Sandavellore C Village,
Sriperumbudur, Kancheepuram, Tamil Nadu - 602 106. ... Petitioner

Vs.

1.Joint Commissioner Audit-II Commissionerate,
Office of the Commissioner of GST and Central Excise,
Audit-II Commissionerate,
No.692, 6th Floor, M.H.U.Complex,
Annasalai, Nandanam, Chennai - 600 035.

2.Additional/Joint Commissioner of GST & Central Excise,
Chennai Outer Commissionerate, Newry Towers,
No.2054, Block I, II Avenue, 12th Main Road,
Anna Nagar, Chennai - 600 040.

3.Deputy Commissioner Audit-II Commissionerate,
Office of the Commissioner of GST and Central Excise,
Audit-II Commissionerate,
692, M.H.U.Complex, Nandanam, Chennai - 600 035.

4.Assistant Commissioner of GST & Central Excise,
Sriperumpudur Division, Chennai Outer Commissionerate,
C-48, TNHB, Anna Nagar, Chennai - 600 040.

5.Commissioner of Central Excise and GST,
Chennai Outer Commissionerate, Newry Towers,
No.2054, Block I, II Avenue, 12th Main Road,
Anna Nagar, Chennai - 600 040. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to Show Cause Notice No.66/2025 (GST) (JC) bearing DIN:20250559XS0000313700 dated 29.05.2025 issued by the first respondent and quash the same and direct the respondents to accept the adjustment made in Form GSTR-3B for July 2021 in line with paragraph 4 of CBIC Circular No.26/26/2017-GST, dated 29.12.2017.

For Petitioner in all W.Ps.,	:	Mr.Raghavan Ramabadran
For Respondents in all W.Ps.,	:	Mr.A.P.Srinivas, Senior Standing Counsel Mr.T.Nalinidhar, Junior Panel Counsel

COMMON ORDER

The Challenge was made against the Show Cause Notice & Communications dated 29.05.2025, 05.08.2024 & 24.04.2024.

2. According to the learned counsel for the petitioner, the petitioner has inadvertently remitted an extra tax of Rs.21,30,85,031/- in the month of August 2020 and they came to know about the same only in the month of July 2021, before filing the additional returns and during the course of audit. So, they have made adjustment immediately in very next month of August 2021. Under these circumstances, the department interpreted the said adjustment as a wrong adjustment and issued a show cause notice dated 29.05.2025, which is challenged in W.P.No.31048 of 2025. Letter initiating recovery proceedings vide communications dated 24.04.2024 and 05.08.2024 are challenged before this Court in W.P.No.27910 & 13185 of 2024. In the latter W.Ps., this Court already granted an order of interim stay on the aspect that the respondents issued the recovery notice, without issuing any show cause notice and the said writ petitions are still pending before this Court.

3. Under these circumstances, DRC-01A was issued, citing that there was a wrongful adjustment of tax. Further, the department cited a

circular No.26/26/2017 dated 29.12.2017, wherein it is stated that in the event, there is any excess of payment of tax in the month of August 2020, the petitioner should have adjusted the same in the subsequent months and not in the next financial year.

4. Learned counsel for the petitioner would further submit that the petitioner has filed a detailed reply stating that the said circular permits the petitioner to adjust any excess payment of taxes in any subsequent months, but not in the next immediate month. However, the respondent-department took a view that it should have been adjusted in the very next month and in the event the petitioner failed to adjust the excess payment of taxes, the only recourse available to them is to file an application for refund. Therefore, rejecting the reply filed by the petitioner to DRC-01A, the impugned show cause notice and DRC-01 have been issued. When such being the case, now, the petitioner filed the present writ petition challenging the DRC-01A citing the reason that his reply was not considered and the respondent's own circular was also ignored and interpretation made by the respondents on the aspect of the adjustment of tax is totally contrary to the circular.

5. In the circular, it is stated that adjustments can be made in any of the subsequent month(s) and, preferably in the subsequent month. Learned counsel for the petitioner submitted that, if possible, adjustments would have been made in the very next month. However, in the present case, they came to know about the excess payment of tax only in the month of July 2021. Therefore, the adjustment made was made in the month of August 2021. The learned counsel for the petitioner would submit that contrary to the said circular, now they have issued a show cause without considering the reply filed by the petitioner to DRC-01.

6. However, the respondents took a stand that recourse is available to the petitioner by way of applying for refund, in the event the petitioner failed to adjust the excess payment the very next month. That being the case, the same has to be decided finally whether they can make adjustment in the very next month or any of the subsequent months or by virtue of making application for refund. Since, the respondent did not accept the stand of the petitioner when they filed a reply to DRC-01A, they issued DRC-01. Once, the petitioner files a reply to the said DRC-

01, it is for the department to pass a detailed speaking order with regard to the reason for rejection. In such cases, the said decisions will be subject to the challenge before the Appellate Authority or before this Court. Therefore, at this stage, this Court is not inclined to interfere and decide the said issue, once the petitioner has filed the reply. Based on the reply, if any final order is passed, this Court is inclined to entertain a challenge thereto, if the case is made out by the petitioner.

7. Such being the case, this Court is not inclined to entertain this writ petition i.e., W.P.No.31048 of 2025 and the same is dismissed with a liberty to file a reply to DRC-01, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the respondents are directed to consider and pass orders, within a period of four weeks thereof. With regard to the recovery notices, the counsel appearing for the respondents submitted that no recovery proceedings will be initiated until a final order is passed after the receipt of the reply to DRC-01 from the petitioner. Therefore, according to the respondents, no recovery proceedings are initiated subsequent to the communications dated 24.04.2024 and 05.08.2024. By recording the submission of the

respondents, both communications challenged in the W.P.Nos.27910 & 13185 of 2024 are closed.

Accordingly, the writ petition No.31048 of 2025 is dismissed with the aforesaid liberty and W.P.Nos.27910 & 13185 of 2024 are closed. No costs. Consequently, connected miscellaneous petitions are closed.

25.08.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

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C-48 TNHB, Anna Nagar, Chennai - 600 040.

2.Deputy Commissioner Audit-II Commissionerate,
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KRISHNAN RAMASAMY.J.,

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