IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.33956 of 2025
and
W.M.P.Nos.38099 and 38100 of 2025

M/s.Riddhi Siddhi Impex,
Represented by its Proprietor,
Mr.Akshat Kumar Jain,
No.22/2, Bhashyakalu Street,
Kondithope, Chennai 600 079. .. Petitioner

Vs.

The State Tax Officer (FAC),
Vallalarnagar Assessment Circle,
Chennai 600 003. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for records on the file of the Respondent and to quash the impugned assessment order dated 05.02.2025 bearing no.33BCWPJ8881P1ZE/2020-21 passed by the Respondent and its Consequential order of rectification dated 04.06.2025 bearing reference no.33BCWPJ8881P1ZE/2020-21 passed by the Respondent.

For Petitioner : Mr.J.Ashish

For Respondent : Mrs.P.Selvi
Government Advocate

ORDER

By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

2. Though the present writ petition is filed challenging the order of adjudication dated 05.02.2025 as well as the order rejecting the rectification petition dated 04.06.2025, learned counsel for petitioner would confine his prayer to the challenge the order rejecting the rectification petition dated 04.06.2025.

3. The primary ground on which the rectification petition was filed by the petitioner is that the entire taxes have been paid and therefore levy of interest was not warranted inasmuch as the Input Tax Credit which was availed has not been utilized. Learned counsel for petitioner submitted that Section 50(3) of TNGST Act, provides for levy of interest only in cases where the Input Tax Credit has been wrongly availed and utilized. He further submits that even assuming that the Input Tax Credit was erroneously availed, it was never utilized and that is a jurisdictional fact necessary to levy interest under Section 50(3) of TNGST Act. In the

absence of existence of above jurisdictional fact, impugned order levying interest suffers from error apparent. It is further submitted by the learned counsel for petitioner that the application for rectification was rejected without even dealing with the above contention and would thus submit that the impugned order dated 04.06.2025, insofar as it rejected the rectification petition suffers from failure to take into account relevant aspects and is thus liable to be set aside.

4. Learned counsel for the respondent would submit that the petitioner was heard and therefore it does not warrant interference.

5. This Court finds that there is merit in the submission of the learned counsel for the petitioner while it is true that a rectification under Section 161 of the TNGST Act, may be discretionary, however, it is power coupled with duty and once it is shown that there is a error apparent, then a duty is cast on the assessing authority to consider and thereafter pass appropriate orders. If in the process of passing an order under Section 161 of the TNGST Act, relevant aspects are not examined then the same suffers from the vice of being an arbitrary exercise of

power warranting interference.

6. In view of the fact that there is non application of mind to the absence of jurisdictional fact necessary for levying interest in terms of Section 50(3) of TNGST Act, this Court is inclined to set aside the impugned order rejecting the rectification petition dated 04.06.2025 and remand the matter back for fresh consideration. The assessing authority shall intimate the date of personal hearing to the petitioner within a period of 2 weeks from the date of uploading of this order copy without waiting for the receipt of certified copy and thereafter pass appropriate orders in accordance with law.

7. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

11.09.2025

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp

MOHAMMED SHAFFIQ, J.

spp

To:

The State Tax Officer (FAC),
Vallalarnagar Assessment Circle,
Chennai 600 003.

W.P. No.33956 of 2025

11.09.2025