IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34242 of 2025
and
W.M.P. Nos.38389 and 38390 of 2025

Tvl.Geesys Technologies (India) Private Limited,
Rep. By its Authorised Signatory,
Mr.Kaliyamoorthy Bharathiraja,
Ground Floor, 21/9, Seshachalam Street,
Saidapet, Chennai-600 015. ...Petitioner(s)

vs.

1.The Assistant Commissioner (ST),
Saidapet Assessment Circle,
No.46, Mylapore Taluk Office Building,
3rd Floor, R.A.Puram, Chennai-600 028.

2.The Deputy Commissioner (GST Appeal),
Chennai-II, PAPJM Building,
Greams Road, Chennai-600 006. ...Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order under Section 73 dated 30.08.2024 having reference No.ZD3308242956134 for the tax period from April 2019 to March 2020 passed by the 1st respondent and direct the 1st respondent to rectify the order under Section 73 dated 30.08.2024 or in the alternative, grant liberty to file a statutory appeal before the 2nd respondent.

For Petitioner(s) : Mr.S.Anandh

For Respondent(s) : Mr.V.Prashanth Kiran
Government Advocate

ORDER

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

2. The present writ petition is filed praying for a writ of Certiorarified Mandamus challenging the impugned order dated 30.08.2024 issued by the 1st respondent under Section 73, having reference No.ZD3308242956134 for the tax period from April 2019 to March 2020 and consequently direct the 1st respondent to rectify the order under Section 73 dated 30.08.2024 or grant liberty to file a statutory appeal before the 2nd respondent.

3. It is submitted by both the learned counsel for petitioner and respondents in unison that the issue involved in this writ petition stands covered by the order of this Court in W.P.Nos.25081 of 2023 and etc. batch dated 17.10.2024, wherein it was held as under:

> *"This batch of Writ petitions have been filed by the petitioners/taxpayers, who are registered dealers on the files of the respondent-Department under the provisions of the Goods and Service Tax Act, 2017 (GST Act)/ Central Goods and Services Tax Act (CGST Act) as the case may be, challenging the orders passed by the respondent-Department, whereby, their claim of ITC was reversed/negatived and the petitioners have been directed to tax/penalty/interest.*

2. As the issue involved in all these Writ Petitions is identical in nature and the relief sought thereunder is interconnected, there were heard together and disposed of vide this Common Order.

3. For the purpose of disposal of these cases, Writ Petition No.25081 of 2023 is taken as a lead case, and it would suffice to note the facts stated thereunder.

i) The petitioner is a registered dealer on the files of the respondent under the provisions of the Goods and Service Tax Act, 2017. For the AY 2019-20, the petitioner filed the returns in GSTR-1 in time and filed GSTR-3B returns belatedly due to Covid-19, but, the respondent, without considering the reasons for the delay is genuine, passed the impugned order dated 06.06.2023, whereby, ITC claim was reversed and also levied interest/penalty under Section 73 of the Act. Hence, the present Writ Petition.

4. When these matters were taken up for hearing on an earlier occasion, i.e. on 24.09.2024, though learned counsel appearing for the respective writ petitioners argued the matters at length, assailing the impugned orders and the learned Standing Counsel appearing for the Official respondents as a counter~blast to such contentions, argued the matter, after heated arguments, the learned Additional Advocate General submitted that during the 53rd GST Council Meeting held on 22.06.2024, the GST Council recommended for extension of the deadline for availing ITC on any invoice or debit notice under Section 16(4) of the CGST Act and this extension would be applicable to any GSTR~3B returns filed for the Fys 2017-18, 2018-19, 2019-20 and 2020-21 with a new deadline deemed to be as "30.11.2021" and to facilitate this extension, the Council also recommended a retrospective amendment to Section 16(4) of CGST Act w.e.f. 01.07.2017.

4.1. Therefore, the learned Additional Government Pleader requested this Court to adjourn the matters by one month, as the Government of India had been requested to obtain Presidential Assent, and that if the proposed amendment come into force with retrospective effect, the same would give to roost to the issue involved in these Writ Petitions, as, by virtue of the said statutory *benefit under the proposed Amendment Act, not only the petitioners but also other taxpayers, who were similarly placed like that of the petitioners herein would be benefited. Since the request made by the learned Additional Government Pleader appears to be that, till Presidential Assent is granted to the Amendment of Section 16 of the CGST Act, no useful purpose would be achieved in adjudicatings the Writ Petitions, this Court adjourned the matters to today.*

5. Accordingly, when the matters are taken up for hearing today, (i.e. 17.10.2024, the learned counsel appearing for the petitioners made a submission in union that the recommendation made by the GST Council during its 53rd GST Council Meeting held on 22.06.2024 for extension of the deadline for filing returns for FYs 2017~18 to 2020~21 with retrospective effect was given approval by the Ministry of Law and Justice, Legislative Department, vide Finance Act (No.2) Act, 2024, dated 16.08.2024, whereby, suitable amendment was made by interpolating sub-sections (5) and (6) after Section 16 (4) of the Central Goods and Services Tax Act and a copy of such presidential assent granted on 16.08.2024, vide Finance Act, (No.2) of 2024, whereby, Section 16 of the CGST Act was amended with retrospective effect from 01.07.2017 by the Ministry of Finance and the Notification issued in regard to the said amendment, and the Circular issued by the Central Board of Indirect Taxes and Customs, clarifying the issues regarding implementation of provisions of sub-sections (5) and (6) in Section 16 of CGST Act, 2017 were produced before this Court for reference and therefore, prayed for quashment of the impugned orders.

6. The learned Additional Advocate General~I and the learned Standing Counsel appearing for the respondent~Department have fairly admitted the legal position and submitted that in the event, ITC pertains to the FYs 2017~18 to 2020~21, in respect of which period, the petitioners have availed ITC benefit on or before 30.11.2021, they are entitled to the claim, and therefore, appropriate orders may be orders, insofar as the impugned orders pertains to belated claim of ITC made by the petitioners for the said Financial Years on or before 30.11.2021. However, as far as the impugned orders relating to other issues *such as discrepancies in availing the ITC/wrong availment of ITC/excess claim of ITC/Fake ITC claim, as the case may be, he prayed that liberty may be granted to the respondent~Department to proceed against the assessees/petitioners in furtherance of the impugned orders in accordance with law.*

7. In reply, Mr.Joseph Prabakar, learned counsel appearing for the petitioner in one of the Writ Petitions would submit that issue involved in all these Writ Petition is identical in nature, as the issue is only with regard to the availment of ITC beyond the period of limitation prescribed under Section 16 (4) of the CGST Act, therefore, the question of discrepancy in availing the ITC or any other issues as pinpointed by the learned Additional Advocate General~I would not arise, therefore, the apprehension expressed on the side of the respondent-Department is baseless and therefore, prayed for appropriate orders.

8. I have given due considerations to the submissions made on either side and perused the materials available on record.

9. The petitioners in all these Writ Petitions are registered dealers on the files of the respondent~Department under the provisions of the Goods and Service Tax Act, 2017/CGST Act 2017. Though the petitioners have filed GSTR~1 returns in time, however, insofar as claim of ITC is concerned, since the petitioners were faced with certain difficulties, such as Financial constraints (as there was complete lockdown due to outbreak Covid~19) health related ailments, fire accidents, they were unable to file GSTR~3B returns, which prompted them not raising their claim ITC in time before the prescribed date. Whereas, the respondent~Department without considering such vital aspects and that reasons for the delay is not deliberate, issued the show cause notices to the petitioners, proposing to reverse the ITC availed and went to the extreme level of confirming the proposals contained in the show cause notices by passing the impugned orders,whereby, the claim made by the petitioners for ITC was reversed and the petitioners have been directed to tax/penalty/interest. Aggrieved against the impugned orders, the petitioners are before this Court by way of present Writ Petitions seeking for setting aside the impugned *orders.*

10. After the filing of these Writ Petitions, certain development took place, i.e. that 53rd GST Council Meeting was held on 22.06.2024, and during the said Meeting, the GST Council recommended for extension of the deadline for availing ITC on any invoice or debit note under Section 16(4) of the CGST Act and this extension would be applicable to any GSTR-3B returns filed for the Fys 2017-18, 2018-19, 2019-20 and 2020-21 with a new deadline deemed to be as "30.11.2021", to which, the Presidential Assent was also obtained by the Government of India on 16.08.2024, whereby, the financial proposals of the Central Government for the Financial Year 2024-25 was given effect to vide Finance Act, (No.2) of 2024, and in view of the aforesaid enactment, the Ministry of Finance (Department of Revenue) Central Board of Indirect Taxes and Customs, issued a Notification, bearing No.17 of 2024~Central Tax, dated 27.09.2024, pursuant to which, a Circular No.237/31/2024-GST was issued by the Central Board of Indirect Taxes and Customs, which was addressed to all the Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All), thereby, clarifying the issues regarding implementation of provision of sub~section (5) and sub~section (6) in Section 16 of CGST Act, 2017, the impugned orders are no longer sustainable and liable to be quashed. In this context, it would be apposite to refer to both Section 16(4) of the CGST Act, 2017, as well as amendment made to Section 16 (4) by interpolations of sub-sections 16 (5) and (6), and by insertion of sub-section (5) to Section 16, which are extracted hereinunder:-

Section 16 (4) :-

"A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier."

Section 16 (5) :-

"Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered persons shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021."

10.1. Thus, a perusal of above Section 16 (5) makes it clear that notwithstanding anything contained in sub-section 4, referred to above, in respect of any invoice or debit note for supply of goods or services or both pertaining to the Fys 2017-18 to 2020-21, the registered persons shall be entitled to take ITC in any return under section 39 which is filed upto the 30th day of November, 2021.

10.2. Thus, this Court considering the fact that the issue involved in all these Writ Petitions is only with regard to the availment of ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, and in the light of the subsequent developments took place, whereby, Section 16 of the CGST Act was amended and sub~section (5) was inserted to Section 16, which came into force with retrospective effect from 01.07.2017, the petitioners are entitled to avail ITC in respect of GSTR-3B filed in respect of FYs 2017-18, 2018-19, 2019-20 and 2020-21 as the case may be, on or before 30.11.2021, is inclined to quash the impugned orders.

11. Accordingly, this Court passes the following orders.

i) The orders impugned in all Writ Petitions are quashed insofar as it relates to the claim made by the petitioners for ITC which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017 but, within the period prescribed in terms of Section 16 (5) of the said Act.

ii) Therefore, the respondent~Department is restrained from initiating any proceedings against the petitioners by virtue of the impugned orders based on the issue of limitation.

iii) In view of the fact that the impugned orders are quashed, the respondent~Department is directed to take immediate steps towards de-freezure of the concerned petitioners bank accounts, which have been freezed in furtherance of the impugned orders, by sending intimation to the concerned bankers.

iv) In the event, in the interregnum, i.e. during the pendency of these Writ Petitions, if any orders are proposed to be passed towards recovery, same shall be dropped immediately upon production of the order copy by the petitioners, in whichever case, where, there is no interim order.

v) It is also made clear that if at all, if there is any tax amounts were collected from the petitioners based on the impugned assessment orders from the cash ledgers/credit ledgers of the petitioners concerned, the same shall be refunded to them or by means of orders of this Court or even in the absence of any order from this Court, if any amount is deposited either in the cash ledgers/credit ledgers of the petitioners concerned, the same is permitted to be utilized/adjusted by the petitioners towards payment of future tax.

vi) Insofar as the apprehension expressed by the learned Additional Advocate General for the respondent~Department that in certain Writ Petition apart from the issue on limitation, challenges have also been made to the order related to issues such as discrepancies in availing the ITC/wrong availment of ITC/excess claim of ITC/Fake ITC claim, as the case may be, or such other issues, liberty is be granted to the respondent~Department to proceed against the assessees/petitioners in furtherance of the impugned orders in accordance with law.

12. In the result, all the Writ Petitions are allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed."

4. In view thereof, the writ petition stands disposed of on the above terms.

No costs. Consequently, the connected miscellaneous petitions are closed.

15.09.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
1.The Assistant Commissioner (ST),
Saidapet Assessment Circle,
No.46, Mylapore Taluk Office Building,
3rd Floor, R.A.Puram, Chennai-600 028.

2.The Deputy Commissioner (GST Appeal),
Chennai-II, PAPJM Building,
Greams Road, Chennai-600 006.

MOHAMMED SHAFFIQ, J.

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