IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.36413 of 2025
and
W.M.P.Nos.40696 & 40697 of 2025

Tvl.Interiality Land Management Services,
Rep by its Partner
Mr.B.M.Vijayakumar. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Amaindakarai Assessment Circle,
No.1, 3rd Floor, PAPJM-Annex Building,
Greams Road, Chennai – 600 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the Respondent in Order dated 27.01.2025 in GSTN 33AAIFI0156K1ZH/2020-21 bearing Reference No.ZD330125247309J and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : M/s.C.Rekhakumari

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate takes notice for the Respondent.

2. This Writ Petition is being disposed of at the time of admission after hearing the learned counsel for the Petitioner and the learned Government Advocate for the Respondent.

3. In this Writ Petition, the Petitioner has challenged the impugned order dated 27.01.2025 passed for the tax period 2020-2021 which was preceded by a Show Cause Notice in GST DRC 01 dated 09.03.2023. The Petitioner was also issued with the personal hearing notice, affording an opportunity for being heard on 03.04.2023 and thereafter three reminders were sent for fixing the personal hearing on various dates. However, the Petitioner failed to take advantage of the opportunity and has thus suffered the impugned order dated 27.01.2025.

4. The allegations against the Petitioner in the Show Cause Notice, which was issued in GST DRC 01 dated 09.03.2023 was that the Petitioner had availed Input Tax Credit (ITC) but had filed the Return belatedly and therefore the

Petitioner was ineligible to avail the Input Tax Credit (ITC). Therefore, the Petitioner was liable to pay the tax that was borne out of the ineligible credit. The Petitioner was also liable to pay interest and penalty in accordance with the scheme under the respective GST enactments.

5. The learned counsel for the Petitioner would submit that although the Return was filed on 18.03.2022, the Input Tax Credit was reversed by the Petitioner during April 2021.

6. The learned Government Advocate for the Respondent on the other hand would submit that there are no documents to substantiate that the Petitioner had indeed reversed the Input Tax Credit (ITC) during April 2021. That apart, it is submitted that there is also no averment to that effect in the Affidavit filed in support of the present Writ Petition.

7. It is further submitted by the Respondent that even if the case is remitted back to the Respondent it will be a frivolous formality, as the Petitioner is ineligible to avail and utilize the Input Tax Credit (ITC) in view of Section 16(4) of the respective GST enactments as per which, a registered person shall not be entitled to take Input Tax Credit (ITC) in respect of any invoice or debit

notice for supply of goods or services or both after the due date of furnishing of the return under Section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

8. Having considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondent and taking note of Ground "G" of the Petitioner in the Affidavit filed in support of the Writ Petition that the Respondent has already reversed the ITC on the ground of belated filing of monthly return of GSTR-3B pursuant to Assessment Order dated 12.02.2025 for the very same Assessment Year 2020-2021, a copy which has not been kept with the typed set of papers, this Court is inclined to remit the case back to the Respondent to pass a fresh order on merits by giving an opportunity to the Petitioner to give a proper reply enclosing all the material documents and evidence to substantiate the case, subject to the Petitioner depositing 25% of the disputed tax amount within a period of 30 days from the date of receipt of a copy of this order.

9. The Petitioner shall also file a reply to the Show Cause Notice in DRC-01 dated 09.03.2023 together with requisite documents to substantiate the case

by treating the impugned order dated 27.01.2025 as an addendum to the Show Cause Notice dated 09.03.2023 within a period of fifteen (15) days from the date of receipt of a copy of this order.

10. Subject to the Petitioner complying with the above stipulated conditions, the Respondent shall proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months thereafter.

11. In case the Petitioner fails to comply with any of the conditions stipulated above, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

12. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

13. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

25.09.2025

Neutral Citation : Yes / No

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To

The Assistant Commissioner (ST),
Amaindakarai Assessment Circle,
No.1, 3rd Floor, PAPJM-Annex Building,
Greams Road, Chennai – 600 006.

C.SARAVANAN, J.

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