IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.36618 of 2025
and
W.M.P.Nos.40930 and 40933 of 2025

M/s.Vaduvambikai Enterprises
Represented by its Partner
Arthi Logeswaran ... Petitioner

Vs.

The State Tax Officer (ST),
Amaindakarai Assessment Circle,
No.1, 3rd Floor, PAPJM 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 impugned proceedings of the Respondent passed in GSTIN:33AABFV6209K1Z5/2017-2018 dated 17.03.2025 and rectification order in Form GST DRC 08 dated 17.03.2025 under Section 161 of the Tamil Nadu Goods and Services Tax Act, 2017 issued in Reference No.ZD330325114057U and quash the same as being contrary to the provisions of the Central Goods and Services Tax Act, 2017 read with the Tamil Nadu Goods and Services Tax Act, 2017 and violative of the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mrs.K.Vasanthamala
Government Advocate

ORDER

Mrs.K.Vasanthamala, 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 learned Government Advocate for the Respondent.

3. This is the second round of litigation before this Court. Earlier, the Petitioner a partnership firm represented by the deponent's husband and father-in-law had been issued with a Notice in DRC – 01A dated 03.08.2022 followed by a Notice in DRC – 01 dated 05.12.2022. An order came to be passed on 30.12.2023.

4. During the interregnum, the Managing Partner of the Petitioner's firm died on 12.12.2023. After the order was passed on 30.12.2023, the Petitioner's husband was also died on 12.05.2024. It appears that the deponent was

inducted as a Partner in the partnership firm after the death of her father-in- law.

5. Taking note of the above circumstances, Writ Court had interfered and passed an order on 07.06.2024 in W.P.No.12874 of 2024 by remitting the case back to the Respondent to pass a fresh order on merits. Pursuant to the aforesaid order, a fresh notice was issued on 03.07.2024. The Petitioner however failed to appeared and has thus suffered the impugned order.

6. Arguing the case on behalf of the Petitioner, the learned counsel for the Petitioner would submit that the Petitioner is a young widow and that she was unaware of the nuances of the order passed on 07.06.2024. It is further submitted that the dispute pertains to the assessment year 2017-2018 and a part of demand actually pertains to tax liability under the provisions of the Tamil Nadu Value Added Tax Act, 2006 till 30.06.2017 and thereafter with effect from 01.07.2017 (new regime) under the provisions of the respective GST enactments.

7. It is submitted that on the cut of date, a sum of Rs.14,82,721/- was lying as input tax credit that was validly availed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and un-utilized the tax deducted at

source (not adjusted) towards the vat liability for a sum of Rs.6,65,396/- under un-utilized tax deducted at source.

8. It is further submitted that in view of the Scheme under Section 140 of the respective GST enactments, both amounts were transitioned under chapter 20 of the respective GST enactments, i.e., input that was lying un-utilized and the tax deducted at source on the work executed by the Petitioner's firm was transitioned. It is submitted that while input tax credit that was transitioned and allowed the TDS deducted by the employer was not allowed by the Respondent, although the Petitioner had transitioned and utilized the same for the tax liability for the succeeding period.

9. The learned counsel for the Petitioner would submit that issue is now covered by the decision of the single bench of this Court in W.P.Nos.9991 of 2020 etc., batch vide order dated 26.02.2021 in the case of ***M/s.DMR Constructions*** Vs. ***The Assistant Commissioner, Commercial Tax Department, Rasipuram, Namakkal District***, wherein, the Court taking note on the situation arising out of the transitioning had set aside the orders impugned therein as held as under:-

"36. In the light of the detailed discussion as above, the

> *impugned orders are set aside, and the petitioners held to be entitled to transition TDS under the TNVAT Act in terms of Section 140 of the TNGST 2017. Allowed. Connected Miscellaneous Petitions are closed with no order as to costs."*

10. The learned counsel for the Petitioner would also submit that a review was also filed against the said decision and the same was dismissed by the Writ Court vide order dated 02.12.2022 and no further appeal has been filed against the order dropping the demand vide order dated 26.02.2021.

11. The learned Government Advocate for the Respondent is unable to confirm whether any appeal has been filed against the order.

12. Considering the over all facts and circumstances of the case and considering the fact that the issue is now *prima facie* covered in terms of the decision of the Writ Court in the case of ***M/s.DMR Constructions*** Vs. ***The Assistant Commissioner, Commercial Tax Department, Rasipuram, Namakkal District*** vide order dated 26.02.2021 which was reiterated by the Writ Court again while dismissing the Review application filed by the Commercial Tax Department vide order dated 02.12.2022. In view of the above position and extenuating circumstances, the Petitioner deserves one more opportunity to explain the case afresh.

13. Under these circumstances, the impugned order is quashed and the case is remitted back to the Respondent to pass a fresh order on merits. The Petitioner shall however co-operate and appear before the Respondent as and when the hearing is fixed. The Respondent shall also endeavor to independently examine the case and considering the fact that issue is now *prima facie* covered in favour of the Petitioner in terms of the above decision of the Writ Court rendered on 26.02.2021 in the case of M/s.DMR constructions referred to supra.

14. This Writ Petition is 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 State Tax Officer (ST),
Amaindakarai Assessment Circle,
No.1, 3rd Floor, PAPJM Building,
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C.SARAVANAN, J.

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