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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.38170 of 2025
and
W.M.P.Nos.42649 & 42651 of 2025

M/s.Aneesh Traders
Represented by its Proprietor
C.Senthilkumar
No.511A Palanisamy Nagar, 1st Street
Vellakovil, Tiruppur - 638 111. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Vellakovil Assessment Circle
Kangeyam, Tiruppur. ... Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying to issuance of Writ of Certiorari, to call for the records of the respondent in his proceedings in GSTIN : 33BCNPS9589L1ZF/2020-21, quash the order dated 31.10.2023 passed therein.

For Petitioner	:	Mr.C.Subramanian
For Respondent	:	Mr.V.Prashanth Kiran Government Advocate

ORDER

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

2. This Writ Petition is being disposed of at the time of admission with the consent of 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 31.10.2023. The Petitioner has approached this Court long after the impugned order was passed and long after the period of filing of an appeal against the impugned order had expired under Section 107 of the respective GST enactments.

4. The specific case of the Petitioner is that the Petitioner is a builder, who was issued with a Show Cause notice in GST DRC-01 dated 30.09.2023, which was preceded by notices in GST ASMT-10 and GST DRC-01A1. It is submitted that the Petitioner had neither availed Input Tax credit on for the motor vehicle purchased nor utilized the same contrary to mandatory provisions of Section 17(5) of TNGST Act, 2017

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for the Assessment year 2020-2021.

5. The specific case of the Petitioner is that the Petitioner has not availed Input Tax Credit, although the same was reflected in auto populated Form GSTR-2A.

6. The learned counsel for the Petitioner submitted that impugned order is liable to be quashed.

7. The learned Government Advocate for the Respondent submitted that this Writ Petition is devoid of merits and is liable to be dismissed, in the light of the decisions of the Hon'ble Supreme Court in **Singh Enterprises** Vs. **Commissioner of Central Excise**, **Jamshedpur and others**, (2008) 3 SCC 70 and in **Commissioner of Customs and Central Excise** Vs. **Hongo India Private Limited and another**, (2009) 5 SCC 791 and also in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

8. Having considered the submissions of the learned counsel for the Petitioner and the learned Government Advocate for the Respondent

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and consistent view taken by this Court under similar circumstances, I am inclined to quash the impugned order dated 31.10.2023 and remit the case back to the Respondent to pass a fresh order, subject to the Petitioner depositing the entire disputed tax in cash from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

9. The Petitioner shall file a reply contemporaneously to the Show Cause Notice in GST DRC-01 dated 30.09.2023 together with requisite documents to substantiate the case by treating the impugned Assessment Order dated 31.10.2023 as an addendum to the Show Cause Notice dated 30.09.2023, within a period of thirty (30) days from the date of receipt of a copy of this order.

10. In case the petitioner deposits the aforesaid disputed tax amount and also files reply, the Respondent shall pass fresh orders on merits and in accordance with law.

11. This Writ Petition stands disposed of with the above observation. No costs. Connected Writ Miscellaneous Petitions are closed.

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To

1. The Assistant Commissioner (ST)
   Vellakovil Assessment Circle
   Kangeyam, Tiruppur.

2. The Public Prosecutor,
   High Court, Madras.

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C.SARAVANAN, J

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