IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No.38351 of 2025
and
W.M.P. Nos.42882 and 42883 of 2025

Tvl.Saravana Projects & Co.
Represented by its Partner,
Mr.M.S.Hari Baabhu,
No.99A, Mettu Street, Kolathur Village,
Singaperumal Koil-603 204. ... Petitioner(s)

Vs.

The Assistant Commissioner (ST)(FAC),
Nandanam Assessment Circle,
No.46, Mylapore Taluk Office Building,
2nd Floor, Greenways Road,
R.A.Puram, Chennai-600 028. ... Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in GSTIN33ABGFS2462R1ZO/2017-18 dated 08.04.2025 insofar as discrepancy No.2 is concerned.

For Petitioner(s) : Mr.Prabhu Mukunth Arunkumar

For Respondent(s) : Mrs.K.Vasanthamala
Government Advocate

ORDER

This is the second round of litigation before this Court. Earlier, petitioner had suffered an adverse order in the hands of the respondent vide order dated 26.12.2023, which was the subject matter of challenge before this Court in W.P. No.7752 of 2024. Vide order dated 22.03.2024, this Court remanded the matter back to the respondent to pass a fresh order on merits.

2. Pursuant to the aforesaid order of the Writ Court dated 22.03.2024, the petitioner was heard and thereafter a fresh order was passed on 08.04.2025. Out the three surviving issues in the aforesaid demand proceedings, the respondent has now confirmed the demand only in respect of discrepancy No.2 namely, excess availment of Input Tax Credit (ITC), as per GSTR 9 than GSTR 2A.

3. By the impugned order it was also concluded that the petitioner has not proved whether suppliers have filed their GSTR 1 for the month of March, 2019. Therefore, in the absence of such proof, petitioner was ineligible to avail ITC which was not reflected in GSTR 2A and supplier GSTR-1 and hence to this extent, ITC of IGST of Rs.51,256/-, CGST of Rs.1,12,360/- and SGST of Rs.1,12,360/- was confirmed to be recovered along with penalty under Section 74(1) and interest under Section 50(3) respectively under the GST Act. The operative portions of the order reads as under:-

"But the Tax payer has not proved whether the suppliers have filed their GSTR-1 of the said invoices before March 2019. In the absence if such proof they are not eligible to avail the above said ITC which were not reflected in 2A and suppliers GSTR-1 and hence this portion of ITC of IGST: 51256- CGST:112360 – SGST:11236 – is confirmed to be recovered along with penalty under Section 74(1) and interest under Section 50(3) of the GST Act."

4. This order was suo-moto modified by invoking machinery under Section 161 of the respective GST enactment whereby the aforesaid demand was partly modified as under:

Sr. No.	***Tax Rate (%)***	***Turn over***	***Tax Period***		***Act***	***POS (Place of Supply)***	***Tax***	***Interest***	***Penalty***	***Fee***	***Othe rs***	***Total***
			From	***To***								
1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	Jul 2017	Mar 2018	IGST	Tamil Nadu	51,256.00	64,279.00	20,000.00	0.00	0.00	1,35,535.00
2	0	0.00	Jul 2017	Mar 2018	CGST	NA	1,12,360.00	1,40,909.00	11,236.00	0.00	0.00	2,64,505.00
3	0	0.00	Jul 2017	Mar 2018	SGST	NA	1,12,360.00	1,40,909.00	11,236.00	0.00	0.00	2,64,505.00

5. Learned counsel for petitioner would also submit that tax impugned to the tune of Rs.2,75,976/- has been paid by the petitioner on 18.05.2025 vide Challan in Form GST PMT-06. He would further submit that though the Court

had remitted the case back to the respondent considering the case in its true perspective and the respondent has however reconfirmed the due that was earlier confirmed vide order dated 26.12.2023, which was set aside by this Court vide order dated 22.03.2024 in W.P.No.7752 of 2024.

6. Learned Government Advocate appearing for respondent would submit that the writ petition is devoid of merits and therefore liable to be dismissed.

7. It is submitted by the learned counsel for petitioner that an alternative remedy by way of an appeal is available for them.

8. Considered the arguments advanced by the learned counsel appearing on either side.

9. This Court finds that petitioner has filed this writ petition on 07.08.2025. However, has taken steps to number this writ petition only on 13.10.2025. The attempt of the petitioner to have the issue redressed on merits under Article 226 of the Constitution of India, cannot be countenanced as no procedural infirmities are discernible from a reading of the impugned order. Therefore, the present writ petition is liable to be dismissed. It is also noticed

that the petitioner has filed the writ petition only on the last date for condoning the delay in filing an appeal had expired.

10. Considering the same, this writ petition is dismissed. However, liberty is granted to the petitioner to file an appeal within a period of 15 days from today. Since the petitioner has already paid the tax amount that was confirmed, no further pre-deposit is required to be made for filing the proposed appeal. In case, such an appeal is filed within the time stipulated above, the Appellate Authority shall dispose of the appeal on merits on its turn. Needless to state, an opportunity of hearing shall be accorded to the petitioner, in accordance with law before passing final order. Since, the entire tax has been recovered, there shall be no further recovery pending final disposal of the appeal. In case the petitioner fails to file appeal within the stipulated time, the respondent is at liberty to proceed against the petitioner in the manner known to law. No costs. Consequently, the connected miscellaneous petitions are closed.

14.10.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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C.SARAVANAN, J.

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To:
The Assistant Commissioner (ST)(FAC),
Nandanam Assessment Circle,
No.46, Mylapore Taluk Office Building,
2nd Floor, Greenways Road, R.A.Puram, Chennai-600 028.

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