IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.40992 of 2025
and
W.M.P.Nos.45950 and 45957 of 2025

Manisekaran
Represented by its Proprietor
M.Manisekaran. ... Petitioner

Vs.

The State Tax Officer,
(Formerly known as Commercial Tax Officer)
Madipakkam Assessment Circle,
No.233, 2nd Floor,
Integrated Commercial Taxes and
Registration Building (South Tower),
Anna Salai, Nandanam,
Chennai – 600 035. ... 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 1st Respondent related to impugned order passed in Reference Number: ZD 330 824 178

4271/2019-20 dated 21.08.2024 and quash the same.

For Petitioner : M/s.V.Vijayalakshmi

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

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

2. In this Writ Petition, the Petitioner has challenged the impugned order dated 21.08.2024 which was preceded by a Show Cause Notice in GST DRC – 01 dated 20.05.2024.

3. The learned counsel for the Petitioner submits that the impugned order dated 21.08.2024 is an ex-parte order, as the Petitioner has failed to respond to the Notice in GST DRC – 01 dated 20.05.2024.

4. The limitation for filing an appeal before the appellate authority has already expired. This Writ Petition is filed only on 13.10.2025.

5. It is noticed that impugned order pertains to the following three items which are as under:-

> *(1) Excess ITC availed in GSTR-3B compared to the tax on inward supplies declared by the suppliers.*
> *(2) Invalid ITC under Section 16(4)*
> *(3) Interest due to late payment of GSTR 3B.*

6. As far as Item No.2 is concerned, the issue is *prima facie* covered in terms of statutory intervention through the insertion of Section 16(5) to the respective GST enactments vide SO 4253(E) with retrospective effect from 01.07.2017 inserted by Finance (No.2) Act, 2024 (15 of 2024) dated 16.08.2024.

7. Considering the same and following the consistent view taken by this Court under similar circumstances, the impugned order is quashed and the case

is remitted back to the Respondent to pass a fresh order on merits, subject to the Petitioner depositing 50% of the disputed tax from the Petitioner's Electronic Cash Register as far as Item Nos.1 and 3 are concerned, within a period of thirty days from the date of receipt of a copy of this order.

8. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 20.05.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 21.08.2024 as an addendum to the Show Cause Notice dated 20.05.2024.

9. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

10. It is made clear that bank attachment shall be lifted subject to the deposit of 50% of the disputed tax as ordered above and no other amount is in arrears barring the amount demanded under the impugned Order.

11. In case the Petitioner fails to comply with any of the stipulations, 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. Connected Writ Miscellaneous Petitions are closed.

03.11.2025

Neutral Citation : Yes / No

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To:

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C.SARAVANAN, J.

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