IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.39643 of 2025
and
W.M.P.Nos.44535 and 44536 of 2025

M/s.Ever Bright Enterprises,
Represented by its Proprietrix
Subha Ramaswamy ... Petitioner

Vs.

1.The State Tax Officer,
Kelambakkam Assessment Circle,
Room 119, 1st Floor,
No.46, Greenways Road,
Raja Annamalaipuram,
Chennai – 600 028.

2.The Deputy Commissioner (CT),
Office of the GST Appeal-II,
PAPJM Building,
2nd Floor, Greams Road,
Chennai – 600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent DRC-01 dated 26.11.2024, consequential order in GSTIN:

33ALLPS7617P1ZA/2020-21 dated 25.02.2025 and the order of the 2nd Respondent in APL-02 dated 02.09.2025 and quash the same and further direct the 1st Respondent to re-do the assessment after verifying the details available in "Auto drafted supplies" in FORM GSTR-2A available in the Good and Service Tax Portal and allow the Input Tax Credit of Integrated Goods and Service Tax.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mrs.K.Vasanthamala
Government Advocate

ORDER

Mrs.K.Vasanthamala, learned Government Advocate takes notice for the Respondents.

2. This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Government Advocate for the Respondents.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 25.02.2025 of the 1st Respondent and Order dated 02.09.2025 of the 2nd

Respondent, rejecting the Petitioner's appeal against the aforesaid Order dated 25.02.2025 of the 1st Respondent.

4. The 1st mentioned Order was passed by the 1st Respondent on 25.02.2025 after issuance of due notice to the Petitioner on 26.11.2024 which was also replied by the Petitioner on 24.02.2025.

5. Aggrieved by the same, the Petitioner filed an appeal before the 2nd Respondent on 29.08.2025 beyond the condonable period of limitation under Section 107 of the respective GST enactments. The said appeal was filed with a delay of 66 days beyond the condonable period of limitation and therefore the 2nd Respondent has now rejected the appeal of the Petitioner.

6. The Petitioner has already pre-deposited 10% of the disputed tax amounting to Rs.1,25,071/- as is evident from the Order dated 02.09.2025, passed by the 2nd Respondent.

7. The only issue that arises for consideration according to the Petitioner is on account of IGST paid on the imports made by the Petitioner.

8. Learned counsel for the Petitioner submits that the issue is now squarely covered by a decision of the Division Bench of this Court in **M/s.L & T Geostructure LLP, Represented by its Chief Financial Officer** Vs. **The Union of India, Through its Revenue Secretary, Department of Revenue, New Delhi and others**, in W.P.Nos.5978 and 5983 of 2020 dated 09.05.2025, (2025) 30 Centax 453 (Mad.). Specifically, a reference was made to Paragraph Nos.96 to 98, 100 and 101, which are reproduced below:-

> "96. With the incorporation of **Form GSTR 2A**, a dealer registered under the provisions of the respective GST enactments is entitled to Input Tax Credit (ITC) on the tax paid / borne on the tax paid by the supplier of goods or service or both. It is auto-populated. It is available on the dashboard. Based on the details of auto drafted inward supplies, the system now enables the recipient of goods or service to avail Input Tax Credit (ITC) based on the stipulations in Section 16 of the respective GST enactments and by drawing the information from the system in **FORM GSTR – 1, 5, 6, 7 and 8**.
>
> 97. Thus, the system has evolved to allow a recipient to avail Input Tax Credit (ITC) on the tax paid / borne on the tax paid by the supplier of goods or service or both. Prior to that the Input Tax Credit (ITC) was being allowed without the details being furnished at 20% , 10%, 5% as detailed in Table II of this Order has become irrelevant.
>
> 98. Once the details are captured, it enabled system and in the returns filed by the supplier of goods or services. The recipient is entitled to avail full Input Tax Credit (ITC). With effect from **15.10.2020** vide **Notification No.79/2020, Central Taxes (CT)** dated **15.10.2020,** the

issue has been fully resolved. Perhaps, it is for this reason why restricted Input Tax Credit (ITC) was allowed at 20% which was later reduced to 10% and thereafter reduced to 5% was removed by amendment to Rule 36(4) vide Notification No.40/2021- Central Tax (CT) dated 01.01.2022 / 10th (Amendment) Rules, 2021 under CGST Rules and vide Notification No.SRO A/24(d)/2021 dated 30.12.2021 / 10th (Amendment) Rules, 2021 under TNGST Rules.

99. .....

100. This restricted availment of Input Tax Credit (ITC) itself has been now phased out in the IT system, since the IT system has been fully evolved with the incorporation of **Form GSTR 2A** vide **Notification No.79** dated **15.10.2020**. Credit will be auto-populated. Therefore, the credit is available which is auto-populated in **Form GSTR 2A**. Input Tax Credit (ITC) that is availed is provisional. It can be asked to be paid back, if there are, any violations either at the suppliers end or at the the recipient's end.

101. Restrictions imposed under Rule 36(4) of the respective GST Rules to avail full credit of Input Tax in absence of the mandatory compliance by the supplier of goods or service as is contemplated under Section 37(1) of the respective GST Acts was a temporary measure to regulate the availing of Input Tax Credit (ITC). *Ipso facto,* it cannot be held that Rule 36(4) of the respective GST Rules is in violation of Article 14 of the Constitution of India.”

9. Learned Government Advocate for the Respondents on the other hand would submit that the Petitioner's appeal before the 2nd Respondent was beyond the condonable period of limitation prescribed under Section 107 of the

respective GST enactments and therefore the 2nd Respondent has rightly rejected the appeal of the Petitioner on merits on 02.09.2025.

10. Hence, submits that this Writ Petition 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. This submission of the learned Government Advocate for the Respondents merits acceptance.

11. However, having considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondents, this Writ Petition is disposed by quashing the impugned Order dated 25.02.2025 and the consequential Order dated 02.09.2025 by remitting the case back to the 2nd Respondent to pass a fresh order after giving due notice to the Petitioner by following the decision of the Division Bench of this Court in **M/s.L & T Geostructure LLP** (referred to *supra*).

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

22.10.2025

Neutral Citation : Yes / No

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To:

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C.SARAVANAN, J.

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