IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 41253 of 2025
and WMP.Nos.46190 and 46191 of 2025

Tvl. MPT Auto Mobiles,
Represented by its Proprietor,
Mr. Palanivel,
2/321-A, Chennai Salai,
Vellakuttai, Krishnagiri,
Tamil Nadu 635001

Petitioner(s)

Vs

The Assistant Commissioner (ST) (FAC)
Krishnagiri -I Assessment Circle, Hosur,
Tamil Nadu.

Respondent(s)

PRAYER

calling for the records on the files of the Respondent herein in GSTIN/33BJHPP3361C1ZI/2017-18 in FORM GST DRC-07 in Order Reference No. ZD330125233608L dated 25.01.2025 and quash the same.

For Petitioner : Mr.C.Chandrasekar

For Respondent: Mrs.P.Selvi, G.A.

ORDER

In this Writ Petition, the petitioner has challenged the exparte order dated 25.01.2025, which was preceded by a notice in DRC-01 dated 22.12.2023.

2. Earlier a notice in Form GSTR ASMT-10 under Rule 99(1) of the respective GST Rules was issued to the Petitioner on 13.03.2023. By the aforesaid intimation, the petitioner was called upon to pay the differential tax of Rs.12,49,214/- being the excess credit availed by the Petitioner. In the said notice, the Petitioner was also called upon to reverse the amount together with interest under Section 50(3) read with Section 50(1) of the respective GST enactments.

3. In reply, the Petitioner has admitted that they had wrongly availed excess input tax credit during 2017-18. However, it was not utilised in GSTR 3B. A copy of the GSTR 3B was also enclosed in reply to notice in Form GSTR

ASMT-10. Subsequently, on 31.03.2023, the Petitioner paid the amount of credit that was availed by the Petitioner. Thereafter, the Petitioner was issued with the notice, which culminated in the impugned order. The issue is only on the interest and penalty on the amount has already been reversed by the Petitioner. Thus the above said credit which was wrongly availed during 2017-18 is said to have not been utilised in the returns for discharging the tax liability of the Petitioner. The question of imposition of interest under Section 50(1) and (3) as mentioned above will have to be re-examined.

4. As far as the imposition of penalty is concerned, token penalty can be imposed in terms of the decision of this Court in ***M/s.Greenstar Fertilizers Limited vs. The Joint Commissioner (Appeals)*** reported in 2024 (6) TMI 667.

5. Since the amount of irregular credit that was availed by the Petitioner was reversed by the Petitioner on 31.03.2023, following the consistent view taken under similar circumstances, the case is remitted back to the Respondent to pass a fresh order on merits.

6. Needless to state that the Petitioner will have to clearly explain that the credit that was wrongly availed during 2017-18 was never utilised by the Petitioner. In view of the above, attachment of the Bank account of the petitioner shall stand vacated forthwith.

7. The Writ Petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

30-10-2025

pvs
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

The Assistant Commissioner (ST) (FAC)
Krishnagiri -I Assessment Circle,
Hosur, Tamil Nadu.

C.SARAVANAN J.

pvs

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