DATED: 07-11-2025

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THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 42258 of 2025
and
W.M.P.No.47300 of 2025

1. M/s GM Plastics
Rep. by its Proprietor M.Govindasamy,
No.17, Arulmigu Pamban Baba Nagar,
Royal Avenue, Metukuppam,
Chennai-600 097.

Petitioner(s)

Vs

Superintendent of CGST And C.Ex.,
Office of the Superintendent of GST
and Central Excise, Range IV
Thuraipakkam, Chennai South
Commissionerate, No.692, 1st Floor,
MHU Complex, Anna Salai,
Nandanam, Chennai-600 035.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records relating to the Order in

Original No.04/2024-GST-Supdt dated 28.08.2024 (DIN No.20240859TL0000495334) with Corrigendum to OIO No.04/2024 GST-Supdt dated 19.02.2025 (DIN No.20250259TL000000BA05) passed by the respondent relating to tax period 2019-20 and to quash the same as unsustainable in law and contrary to Section 16(5) in the Act.

For Petitioner(s):	Mr.M.A.Mudimannan
For Respondent:	Mr.Sai Srujan Tayi Senior Standing Counsel and M/s.Pooja Jain Junior Standing Counsel

ORDER

With the consent of the learned counsel for the petitioner and the learned Standing counsel for the respondents, this writ petition is being disposed of at the time of admission.

2. In this writ petition, the petitioner has challenged the impugned order in Original No.4 of 2024-GST-Supt, dated 28.08.2024, as amended by Corrigendum dated 19.02.2025.

3. By the impugned order, the demand that was proposed in the Show

Cause Notice issued to the petitioner has been confirmed, and in the Corrigendum, certain variations have been made in respect of penalty by quantifying the amount of penalty payable by the petitioner under Section 73(9) on account of the various defects pointed out in the Show Cause Notice that preceded the impugned order.

4. The entire backlog of the impugned demand pertains to belated demand of input taxes of Rs.4,29,694/- (CGST Rs.2,14,847/-; SGST Rs.2,14,847/-). This aspect has now been addressed by statutory intervention with the insertion of Section 16(5) of TNGST Act, 2017.

5. The petitioner was required to comply with Notification No. 22 of 2024, Central Tax, dated 08.10.2024, issued under Section 148 of the CGST Act, 2017.

6. A similar notification was also issued by the State Government. A detailed procedure has also been prescribed in this regard by the Central Board

of Indirect Taxes and Customs, GST Policy Wing, vide Circular No.237/31/2024-GST dated 15.10.2024, from File No.CBIC-20001/6/2024-GST. Paragraph No.3.5 of the above circular is relevant to the facts of the case, which reads as under:

> ***"3.5 Where order under Section 73 or Section 74 of the CGST Act has been issued but no appeal against the said order has been filed with the Appellate Authority, or where the order under Section 107 or Section 108 of the CGST Act has been issued by the Appellate Authority or the Revisional Authority but no appeal against the said order has been filed with the Appellate Tribunal:***
>
> *In such cases, where any order under Section 73 or Section 74 or Section 107 or Section 108 of the CGST Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed, the concerned taxpayer may apply for rectification of such order under the special procedure under Section 148 of the CGST Act notified vide Notification No.22/2024-Central tax dated 08.10.2024,*

within a period of six months from the date of issuance of the said notification."

7. The petitioner has not complied with the requirement of the above notification as clarified by the above circular.

8. The impugned order is prior to the aforesaid notification and circular dated 08.10.2024 and 15.10.2024 respectively. Since the notification is only procedural in nature, the petitioner is entitled for input tax credit on the belated filing of the same, in view of the above statutory intervention.

9. Therefore, the case is remitted back to the respondent to examine, whether the petitioner was indeed entitled for the input tax credit, otherwise barring the delay, subject to the petitioner satisfying all other requirements, as the issue was not decided as to whether credit was otherwise admissible but for the late availing of the input tax credit.

10. Considering the fact that the case has been remitted back on this issue, insofar as the other demands are concerned, the petitioner is given liberty to file a Statutory appeal after rectification orders are passed by the respondent in pursuance to the order of this Court.

11. All coercive proceedings will be kept in abeyance, subject to the petitioner depositing 25% of the balance amount and the other amount covered by the defect under Section 16(4) of the respective GST Enactments.

12. This writ petition is disposed of with the above observations. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

07-11-2025

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

1.Superintendent of CGST And C.Ex.,

Office of the Superintendent of GST
and Central Excise, Range IV
Thuraipakkam, Chennai South
Commissionerate, No.692, 1st Floor,
MHU Complex, Anna Salai,
Nandanam, Chennai-600 035.

C.SARAVANAN, J.

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