IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 40833 of 2025
and WMP.Nos.45765 and 45766 of 2025

M/S.Rivera Enterprises
Rep by its Proprietor
Mr. Ganesha Murthy,
2/111 Uthukattai Amman Kovil Street,
Chinnama Nagar, Thaiyur,
Kancheepuram 603103.

Petitioner(s)

Vs

1. The Commercial Tax Officer (State Tax Officer)
Keelambakkam, Assessment Circle,
Chengalpattu.

2.The Deputy Commissioner (Appeal)
1 Perarignar Anna Platinum Jubilee Building,
Commercial Taxes Department
Greams Road, Thousand Lights West
Thousand Lights
Chennai 600006.

3.The Deputy Commissioner (ST)
No.26, Abhirami Complex,
Kanchipuram High Road,
Thimmavaram, Chengalpattu- 603 101.

Respondent(s)

PRAYER

call for records (1) ZD330324043639E dated 08.03.2024 Belated claim of ITC for the year 2018-19- APR 2018 - MAR 2019, for Rs 4,35,035.00 issued by the 1st respondent and (2) DRC-13 dated 01.09.2025 issued by the 3rd Respondent under 79 (C) for the outstanding payment as alleged in the ZD330324043639E dated 08.03.2024 Belated claim of ITC for the year 2018-19- APR 2018 - MAR 2019 Rs.4,35,035.00 wrongly mentioned in the order as Rs.3,91,548/- to quash and direct the 1st respondent to drop the recovery proceeding as same is covered under amended provision of Section 16(4) and 16(5) of CGST Act 2017

For Petitioner: Mr.K.Sureshkumar
For Respondent: Mrs.K.Vasanthamala, GA

ORDER

In this Writ Petition, the petitioner has challenged the impugned assessment order dated 08.03.2024 and the impugned garnishee order dated 01.09.2025 in DRC-13.

2. Earlier the Petitioner was issued with GST ASMT-10 under Rule 99(1) on 19.05.2022. In the aforesaid intimation in GST ASMT-10, the petitioner was called upon to reverse the sum of Rs.6,68,257/- being the input tax credit

availed on IGST belatedly beyond the limitation prescribed under Section 16(4) of the respective enactments. As the petitioner failed to reverse the same, earlier an order came to be passed on 29.04.2024 in response to the notice in DRC-01 dated 19.12.2023.

3. The above order was successfully challenged by the petitioner before this Court in WP.No.16289 of 2025 in the light of the statutory intervention with the insertion of Rule 16(5) to the respective GST Rules vide SO 453(E) with retrospective effect from 01.07.2017 inserted by Finance (No.2) Act, 2024 (15 of 2024) dated 16.08.2024.

4. Vide order dated 02.07.2025 in WP.No.16289 of 2025, the impugned order therein was set aside following the views taken by this Court earlier in a batch of Writ Petitions in WP.Nos.25081 of 2024, etc. batch, vide order dated 17.10.2024.

5. As far as the input tax credit of IGST, which was also availed belatedly is concerned, the same stands now regularised by virtue of the order dated

02.07.2025 in WP.No.16289 of 2025. The impugned order dated 08.03.2024 and the consequent impugned recovery notice in DRC-13 dated 01.09.2025 are concerned, *prima facie* indicates are for recover the interest on account of the belated availing of the input tax credit on the IGST during the tax period 2018-19.

6. The amount of IGST in the mentioned impugned order also matches with the amount mentioned in Form GST ASMT-10 for a sum of Rs.6,68,257/-, which was the subject matter of the challenge before this Court in WP.No.16289 of 2025 in order dated 27.12.2025. Rs.6,88,527/- appears to be a typographical error.

7. Therefore, the impugned order of recovery proceedings in DRC-13 dated 01.09.2025 pursuant to the impugned order dated 08.03.2024 are arbitrary as the belated availing of the input tax credit has been regularised by way of statutory intervention as mentioned above, in view of the order of the Writ Court dated 02.07.2025 in WP.No.16289 of 2025.

8. Considering the over all circumstances of the case, the case is remitted back to the respondents to pass a fresh order taking note of the order of the Writ Court in WP.No.16289 of 2025 as expeditiously as possible. Since the matter is remitted back to the respondents to redo the exercise afresh in the light of the above observations, the recovery proceedings in DRC-13 dated 01.09.2025 stands quashed. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

30-10-2025

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

To

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2.The Deputy Commissioner (Appeal)
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C.SARAVANAN J.
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