IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

WP.No.45254 of 2025
and
WMP.Nos. 50395 & 50397 of 2025

M/s.Muthu Traders
Rep by its Proprietor Mrs.Kashi Mani Muthu Raj
Old No.41/2, New No.12, Telegu Chetty Street
Old Washermanpet, Chennai 600021 ... Petitioner

Vs.

1. The Deputy Commercial Tax Officer
Royapuram Assessment Circle
Integrated Commercial Taxes Offices Complex
No.32, 2nd floor, Elephant Gate Bridge Road
Vepery, Chennai 600 003

2.The Assistant Commissioner (ST)
Royapuram Assessment Circle
Integrated Commercial Taxes Offices Complex
No.32, 2nd floor, Elephant Gate Bridge Road
Vepery, Chennai 600 003

3.The Deputy Commissioner (ST)
North Zone, Integrated Commercial Taxes Offices Complex
Room No.510, 5th floor, Elephant Gate Bridge Road
Vepery, Chennai 600003 ... Respondents

Prayer :This Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned Order dated 26.04.2024 having Ref.No.ZD3304242102036 issued by the 1st respondent and quash the same and all other consequential proceedings issued by the respondents.

For Petitioner : Mr.S.Michael

For Respondents : Mr.TNC.Kaushik
Additional Government Pleader

ORDER

Mr.TNC.Kaushik, learned Additional Government Pleader takes notice for the Respondents.

2. This Writ Petition is being disposed of at the stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Additional Government Pleader for the Respondents.

3. The petitioner is before this court against the impugned order dated 26.04.2024, passed by the 1st Respondent for the tax period 2018-19 which preceded a Show Cause Notice in DRC 01 dated 28.12.2023 to which the Petitioner failed to reply inspite of several reminders and thus suffered the impugned order.

4. By the impugned order, the petitioner has been imposed with a tax liability as follows:-

S.No	Issue	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7
1	Total tax due in (Excess claim of ITC) above	1154421	1154421	0	0	2308842
2	Interest on amount in S.No.1	1089647	1089647	0	0	2179294
3	Penalty on amount in S.No.1	115442	115442	0	0	230884
4	Interest due to late payment of 3B	0	0	0	0	0
	Total (1+2+3+4)	2359510	2359510	0	0	4719020

5. The impugned demand proposed in the Show Cause Notice confirmed vide impugned order primarily arises out of belated availing of Input Tax Credit contrary to Section 16(4) of the respective GST enactments for the tax period starting from April 2018 to March 2019.

6. For the month of April 2018, another assessment order has been passed earlier on 30.05.2023 by the 1st Respondent, wherein the demand has been confirmed against the petitioner as follows:

TOTAL ABSTRACT OF DEMAND DETERMINED :-

(Amount in Rs.)

Tax Period	Act	Tax	Interest (as on 30.05.2023)	Penalty u/s 73	Total
2018-19	CGST	113683	72882	11368	197933
	SGST	113683	72882	11368	197933
	Total	227366	145764	22736	395866

7. *Prima facie,* there appears to be an over lap insofar as demand for the

month of April 2018 is concerned. That apart, the issue with regard to belated claiming of Input Tax Credit has been settled in favour of the Petitioner by virtue of statutory intervention, by insertion of Rule 16(5) to the respective GST Rules by **Finance (No.2) Act, 2024 (15 of 2024)** dated **16.08.2024 vide SO 4253(E) with retrospective effect from 01.07.2017**

8. The petitioner may not have complied with the Notification No.22/2024 dated 08.10.2024 issued pursuant to the above statutory intervention and Circular issued by the Board. However, this court has taken a categorical view that as long as the Assessee is otherwise entitled to Input Tax Credit on account of the statutory intervention, the delay in filing rectification application as is contemplated under Section 148 of the respective GST enactments read with Notification and Circulars need not come in the way of regularizing the defect in availing the Input Tax Credit in time.

9. Under these circumstances the case is remitted back to the respondent to pass a fresh order on merits. 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.

10. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 28.12.2023 together with requisite documents to substantiate the case by treating the impugned Order dated 26.04.2024 as an addendum to the Show Cause Notice dated 28.12.2023.

11. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

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

03.12.2025

Neutral Citation : Yes/No
gv

C.SARAVANAN.,J

gv

To

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