



WEB COPY



W.P.No.47205 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.47205 of 2025

and

W.M.P.Nos.52745 and 52746 of 2025

Kabriyal Rajan
(Proprietor of M/s.Pitha Hardware)
No.491, Phase 3, Ayanambakkam Road,
Ambattur, Chennai,
Tamil Nadu – 600 058.

... Petitioner

Vs.

The Supertintendent,
CGST & Central Excise,
Range-III, Ambattur Division,
Chennai North Commissionerate.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent in Order-in-Original No.01/2024-25 (GST)-Range-III-Amb dated 10.04.2024 along with its consequential FORM GST DRC-07 with Reference No.ZD330325255960F dated 29.03.2025 for the tax period Apr 2018 – Mar 2019 and quash the same.

For Petitioner : Mr.A.P.Karventhan
For Respondent : Mr.Sai Srujan Tagi,
Senior Standing Counsel



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ORDER

This writ petition has been disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned counsel for the respondent.

2. In this writ petition, the petitioner has challenged the impugned order in Original No.1/2024-25(GST)-Range-III-Amb dated 10.04.2024 in DRC-07 and the summary demand dated 29.03.2025 passed by the Respondent for the tax period 2018-2019.

3. The reading of the impugnd order *prima facie* indicates that the petitioner had been denied the Input Tax Credit on the ground that the petitioner failed to file the Returns in time.

4. However, the issue is settled in favour of the petitioner in view of the statutory intervention by insertion of Sections 16(5) and 16(6) to the respective GST enactments by of the Act with insertion of **Section 16(5) to the respective GST enactments vide SO 4253(E) with retrospective effect from 01.07.2017 inserted by Finance (No.2) Act, 2024 (15 of 2024) dated 16.08.2024.**



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5. The petitioner is *prima facie* entitled to the Input Tax Credit as clarified in **Circular No.237/31/2024-GST**, dated **15.10.2024**.

4. In Para 3.5 of the said circular, it is clarified 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 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.

5. This Court has taken a categorical view that the Input Tax Credit having been made available by virtue of the statutory provisions referred to above is a substantive benefit and should not be denied merely on account of procedural lapses, following the well-established principles laid down by the Hon'ble Supreme Court that procedure is the handmaid of justice and not its



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mistress. Therefore, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order on merits, de hors the procedural objections, in light of the above circular.

6. As long as the petitioner produces requisite documents to substantiate that the petitioner has rightly claimed the Input Tax Credit and considering the fact that the petitioner failed to file the returns within the prescribed period, the respondent shall pass appropriate orders to regularize the default in filing the returns in view of the statutory intervention.

7. The petitioner may file a supplementary application seeking rectification of the impugned order, and in case such an application is filed by the petitioner, the same shall be disposed of in accordance with law by the Respondent.

8. The Writ Petition is disposed of with the above observations.
No costs. Connected W.M.Ps are closed.

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Neutral Citations: Yes/No

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The Supertintendent,
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C.SARAVANAN, J.

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