**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 08.12.2025

CORAM :

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.No.46382 of 2025
and
W.M.P.Nos.51725 and 51728 of 2025

Tvl.Usmania Corporation,
No.0, Chidambaram Main Road,
Kumaratchi, Cuddalore,
Tamil Nadu-608 306. ... Petitioner

Vs.

The Deputy State Tax Officer-I,
Chidambaram-2 (FAC),
Office of Commercial Tax Building,
State Tax Officer, Chidambaram-2,
Near Court,
C.Mutlur, Bye Pass Road, Chidambaram. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to Order dated 06.02.2025 issued in Form GST DRC-07 bearing Reference No.ZD3301225064143U and quash the same and to direct the respondent to pass a fresh order considering the facts as mentioned above.

For Petitioner : Mr.C.Bosco
For Respondent : Ms.Amirtha Dinakaran
Government Advocate

**ORDER**

In this Writ Petition, the Petitioner has challenged the Order dated 06.02.2025 in DRC-07 passed by the respondent whereby the demand that was proposed in Show Cause Notice in DRC 01 dated 25.11.2024 has been confirmed against the petitioner. The petitioner filed a reply on 31.01.2025 to the Show Cause Notice in DRC-01 dated 25.11.2024.

2. The notice that preceded the impugned Order has primarily raised objections/defects in GSTR 3B as compared to the information declared by the suppliers on inward supplies.

3. Learned counsel for the petitioner submitted that to the extent of objections/defects raised on excess Input Tax Credit availed by the petitioner, the petitioner has complied with the notice that preceded the impugned Order.

4. However, as far as Defect No.2 is concerned for the alleged violation of Section 17(5) of the respective GST enactments, it is the case of the petitioner that the petitioner is the authorised dealer of cements, manufactured and marketed by M/s.Dalmia Cement (Bharat) Limited. It is further submitted that Input Tax Credit was availed on the strength of

invoices raised by the said supplier has been wrongly denied to the petitioner invoking Section 17(5) of the respective GST Enactments.

5. Reading of the impugned Order indicates that the petitioner's reply dated 31.01.2025 is only a skeletal reply. In the reply, the petitioner has stated as follows:

> "Sir, we have input taken only dalmia cement bharat ltd the company was only supply Registered dealer we have not taken ineligible ITC please verify.
>
> Thanking you.''

Along with reply, the petitioner also appears to have uploaded the respective invoices from the supplier.

6. Reading of the impugned Order *prima-facie* indicates that the notice that preceded impugned Order has not clearly invoked Section 17(5) of the respective GST enactments, attracting the facts and circumstances of the case, particularly, when it is the case of the petitioner that the petitioner is a dealer of Cements. Since both the reply filed by the petitioner on 31.01.2025 and impugned Order are unclear, on this aspect, the impugned Order is liable to be quashed.

7. It is noticed that the limitation for filing an appeal under Section 107 of the respective GST enactments, 2017 against the impugned Order has already expired. The present Writ Petition has been filed only on 18.11.2025.

8. Under similar circumstances, Orders have been quashed and cases have been remitted back to pass a fresh order on terms subject to such Assessee depositing 10% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

9. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 10% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

10. Within such time, the Petitioner shall also file an additional reply to the Show Cause Notice in GST DRC-01 dated 25.11.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 06.02.2025 as an addendum to the Show Cause Notice dated

25.11.2024, if so desires.

11. In case the Petitioner complies with the above stipulations, 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. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

12. It is made clear that bank attachment shall be lifted subject to the deposit of 10% of the disputed tax as ordered above and the petitioner is not in arrears of any other amount barring the amount demanded under the impugned Order.

13. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

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

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

**08.12.2025**

ssn

To:

The Deputy State Tax Officer-I,
Chidambaram-2 (FAC),
Office of Commercial Tax Building,
State Tax Officer, Chidambaram-2,
Near Court,
C.Mutlur, Bye Pass Road,
Chidambaram.

**C.SARAVANAN, J.,**

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