IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.46697 of 2025 and
W.M.P.Nos.52110 & 52114 of 2025

Tvl.Nimo Productions,
(Represented by its Proprietor,
Mr.Krishnan),
No.20/3, Nakiran Street,
West Mambalam, Chennai,
Tamil Nadu – 600 033. ... Petitioner

Vs.

1.The Assistant Commissioner (ST) (FAC),
Kodambakkam Assessment Circle,
No.1, 4th Floor, PAPJM Annex Building,
Greams Road, Chennai – 600 006.

2. The State Tax Officer,
Kodambakkam Assessment Circle,
No.1, 4th Floor, PAPJM Annex Building,
Greams Road, Chennai – 600 006. ... Respondents

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 1st respondent herein in his order in FORM GST DRC-07 with Reference No.ZD330225194022T dated 19.02.2025 issued along with the detailed order in GSTIN:33AAFPB8610G2Z7/2020-21 dated 19.02.2025 for the tax period April 2020 to March 2021 and quash the same.

For Petitioner : Mr.B.Syed Abdul Wakeel

For Respondents : Mr.TNC Kaushik,
Additional Government Pleader

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ORDER

In this writ petition, the petitioner has challenged the order dated 19.02.2025, which was preceeded by a Show Cause Notice dated 26.11.2024, the petitioner was issued with reminders on 24.01.2025, 15.02.2025 and 15.03.2025, the petitioner, however did not file a reply and thus suffered the impugned order dated 19.02.2025.

2. On the basis of the information, records and data available with the Department, and the objection filed by the assessee, the order has been confirmed for the defects mentioned in the show cause notice issued, under the following heads:-

(i) Excess claim of ITC:

The excess input tax credit (ITC) claimed on account of non-reconciliation of information declared in GSTR-3B:

> It is observed that the taxpayer has not correctly availed input tax on his inward supplies on reconciliation of turnovers in GSTR-3B.

Excess ITC availed in GSTR-3B compared to the tax on inward supplies declared by the suppliers:

> You have availed excess ITC in GSTR-3B as compared to the tax declared by your suppliers on the supplies made to you. GSTR-1 filed by supplier up to the tax period of September of following FY till the cut-off date has been considered for availiability of ITC. For the FY:Apr 20-Mar 21, the cut-off date is 30 Nov, 2021.

S. No	Description	Table No. in GSTR-3B	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7	8
1	ITC availed GSTR-3B	in4A(5)	324768	324768	0	0	649536

2	Tax declared by the suppliers on the supplies made to you	Cumulative figures of GSTR-01 filed by suppliers	3184	3184	0	0	6368
3	Invalid ITS as the supplier has filed GSTR-01 after the cut-off date	Cumulative figures of GSTR-01 filed by suppliers after the cut-off date		0	0	0	0
4	Ineligible ITC	Table 4D of GSTR 3B	0	0	0	0	0
5	Excess ITC availed {S.No.1-S.No4} (-) {S.No.2-S.No.3}		321584	321584	0	0	643168

(ii) <u>Invalid ITC under Sec 16(4)</u>

Under Sec.16(4) of the CGST & SGST Acts, 2017, a registered person shall not be entitled to take input tax credit for supply of goods or services after the due date of furnishing the return under Sec.39 for the month of September, Apr 20-Mar 21 (FY) i.e., 30 Nov,2021. However, it is observed that, you have availed input tax credit after this due date. Therefore, you are not entitled to the ITC claimed in the GST 3B return as below:

S. No	Tax Period	Dt.of filing of return	ITC claimed				
			SGST	CGST	IGST	CESS	Total
1	2	3	4a	4b	4c	4d	4e
1	Nov,2020	2022-04-19	144	144	0	0	288
2	Dec,2020	2022-04-20	0	0	0	0	0
3	Jan,2021	2022-04-20	322677	322677	0	0	645354
4	Feb,2021	2022-04-20	144	144	0	0	288

5	Mar,2021	2022-04-20	327	327	0	0	654

The above amount of ITC is proposed to be recovered.

3. The learned counsel for the petitoiner submits that there is an overlap, as part of the demand has arisen from excess Input Tax Credit (ITC) claimed on account of non-reconciliation of the information declared in GSTR-3B.

4. Prima facie, it appears that there is an overlap insofar as the demand confirmed in the impugned order dated 19.02.2025 is concerned.

5. Considering the same, there shall be a direction to the petitioner to deposit 25% of the disputed tax confirmed under Section 16(4) of the respective GST enactment within a period of 30 days together with a reply from the date of receipt of a copy of this order.

6. In case the Petitioner complies with the above stipulations, the first

Respondent shall proceed to pass a fresh 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 raised/vacated.

7. In case the Petitioner fails to comply with any of the stipulations, the first 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.

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

01.12.2025

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Neutral Citation : Yes / No

To:

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C.SARAVANAN, J.,

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