IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.47511 of 2025
and
W.M.P.Nos.53050 and 53054 of 2025

M/s.Tasty Food Products,
Represented by its Proprietor
Natarajam Murugan ... Petitioner

Vs.

The State Tax Officer,
Tondiarpet Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai – 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in Form GST DRC – 01 dated 13.11.2024 and the consequential order in GSTIN/33AYHPM6935B1ZK/2020-2021 along with Form DRC – 07 dated 15.02.2025, quash the same in view of the retrospective insertion of sub-section (5) to Section 16 of the Goods and Service Tax Act, 2017 vide Finance Act, 2024 notified on 27.09.2024 with retrospective effect from 01.07.2007 vide S.O.4253(E) and further direct the respondent to refund the amount of the Input Tax Credit Rs.1,18,787/- paid by the Petitioner on 12.11.2025.

For Petitioner : Mr.P.Arumugam
for Mr.V.Sundareswaran

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate takes notice for the Respondent.

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 Government Advocate for the Respondent.

3. The Petitioner is before this Court against the impugned order dated 15.02.2025 passed for the tax period 2020-2021 which was preceded by a Show Cause Notice in GST DRC – 01 dated 13.11.2024 to which the Petitioner failed to respond to the same.

4. It is the contention of the Petitioner that the demand that has been confirmed vide impugned order primarily only account of mis-match between the GSTR – 3b and GSTR – 2A. It is submitted that the Petitioner

has availed Input Tax Credit within the time stipulated under Section 16(4) of the respective GST enactments. However, the supplier failed to file GSTR – 3B from therein in time resulting in mis-match between GSTR – 3B and GSTR - 2A. It is therefore submitted that in view of the statutory notification under Section 16(5) to the respective GST enactments inserted by **Finance (No.2) Act, 2024 (15 of 2024)** dated **16.08.2024**, vide **SO 4253(E) with retrospective effect from 01.07.2017.**

5. The entire demand that has been proposed and confirmed vide impugned order is liable to be interfered with.

6. The learned Government Advocate for the Respondent is however unable to confirm the same in absence of a proper reply from the Petitioner as to whether indeed the supplier had filed the returns in GSTR - 3B in time and that the amount was later auto populated into the Petitioner's GSTR 2A.

7. A reading of the impugned order and the extract of GSTR - 3B filed by the Petitioner indicates that the credit was availed in time. However, the fact remains that if the demand was purely based on Section 16(4)

violation. Same would stand cured by the statutory intervention as observed above.

8. Considering the fact that the Petitioner has not replied to the Show Cause Notice and the case is remitted back to the respondent to pass a fresh order on merits subject to the Petitioner depositing 25% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of six weeks from the date of receipt of a copy of this order. In case any amount has been recovered as stated by the Petitioner vide payment receipt dated 12.11.2025 has been filed no further pre-deposit to be required as a condition for denovo order.

9. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 13.11.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 5.02.2025 as an addendum to the Show Cause Notice dated 13.11.2024.

10. 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 stand automatically vacated.

11. It is made clear that bank attachment shall be lifted subject to deposit 25% of disputed tax as ordered above and the Petitioner is not being in arrears of any other amount barring the amount demanded under the impugned Order.

12. 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.

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

14. This Writ Petition stands disposed of with the above observations.

No costs. Connected Writ Miscellaneous Petitions are closed.

04.12.2025

Neutral Citation: Yes / No
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To:

The State Tax Officer,
Tondiarpet Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai – 600 003.

C.SARAVANAN, J.

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