IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.48820 of 2025 and W.M.P.Nos.54505 & 54508 of 2025
and
W.P.No.48823 of 2025 and W.M.P.Nos.54510 & 54513 of 2025
and
W.P.No.48828 of 2025 and W.M.P.Nos.54518 & 54520 of 2025
and
W.P.No.48837 of 2025 and W.M.P.Nos.54530 & 54531 of 2025
and
W.P.No.48841 of 2025 and W.M.P.Nos.54535 & 54536 of 2025

Tvl.Momentive Performance Materials (India) Private Limited,
Represented by its Director Mr Avaneesh M N,
No.B-3, Oragadam, Sipcot Industrial Park, Oragadam,
Kancheepuram 602 105. ... Petitioner in all cases

Vs.

1. Joint Commissioner (ST), Intelligence – II,
No.1, PAPJM Buildings, Greams Road,
Thousand Lights, Chennai – 600 006.

2. State Tax Officer,
Group-II, Intelligence – II,
No.1, PAPJM Buildings, Greams Road,
Thousand Lights, Chennai – 600 006. ... Respondents in all cases

Prayer in W.P.No.48820 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Second Respondent and quash the Impugned Order under Section 74 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 dated 09.09.2025 along with the Summary of the Order in Form GST DRC-07 dated 09.09.2025 having Reference Number ZD33092510222V and in GSTIN:33AAACG9931FIZR passed by the Second Respondent for FY 2018-2019.

Prayer in W.P.No.48823 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Second Respondent and quash the Impugned Order under Section 74 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 dated 12.09.2025 along with the Summary of the Order in Form GST DRC-07 dated 12.09.2025 having Reference Number ZD3309251481477 and in GSTIN:33AAACG9931FIZR passed by the Second Respondent for FY 2019-2020.

Prayer in W.P.No.48828 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Second Respondent and quash the Impugned Order under Section 74 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 dated 13.09.2025 along with the Summary of the Order in Form GST DRC-07 dated 13.09.2025 having Reference Number ZD330925157033H and in GSTIN:33AAACG9931FIZR passed by the Second Respondent for FY 2020-2021.

Prayer in W.P.No.48837 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Second Respondent and quash the Impugned Order under Section 74 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 dated 13.09.2025 along with the Summary of the Order in Form GST DRC-07 dated 13.09.2025 having Reference Number ZD330925157090H and in GSTIN:33AAACG9931FIZR passed by the Second Respondent for FY 2021-2022.

Prayer in W.P.No.48841 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Second Respondent and quash the Impugned Order under Section 74 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 dated 27.09.2025 along with the Summary of the Order in Form GST DRC-07 dated 27.09.2025 having Reference Number ZD3309253961170 and in GSTIN:33AAACG9931FIZR passed by the Second Respondent for FY 2023-2024.

For Petitioner : Mr.N.V.Balaji in all cases
For Respondent : Mr.V.Prashanth Kiran,
Government Advocate in all cases

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COMMON ORDER

By this common order, all the five writ petitions are disposed of.

2. These cases were heard at the time of admission on 16.12.2025 and were thereafter adjourned to be taken up for final disposal today.

3. In these writ petitions, the petitioner has challenged the respective assessment orders in Form GST DRC-07 passed by the 2nd Respondent for the tax periods 2018–2019 to 2023–2024, except for the assessment order passed for the tax period 2022–2023.

4. The case of the petitioner is that the impugned assessmnet proceedings was initiated against the petitioner pursuant to an inspection at the petitioner's place of business by the 1st Respondent under Section 67 of the respective GST Enactments which culminated in the issuance of Show Cause Notices in Form GST DRC-01 for the respective tax periods.

5. It is submitted by the learned counsel for the petitioner that about thirty (30) defects were pointed out at the stage of issuance of Show Cause Notice in Form GST DRC-01, which were later narrowed down to few specific issues for the respective tax periods.

6. It is submitted by the learned counsel for the petitioner that certain minor defects relate to the failure on the part of the petitioner to file the necessary E-Way bills and as far as the other defects are concerned, they relate to the availing of alleged ineligible Input Tax Credit on input services. It is further submitted that in the respective GSTR-09 returns filed by the petitioner, there was an inadvertent mistake in declaring the Input Tax Credit availed under "inputs" as "input services" and vice versa.

7. According to the petitioner, the said mistake was explained after the case was heard by the respondent during the personal hearing. The learned counsel for the petitioner submits that had the said mistake in

GSTR-09 been properly considered, the demand relating to Input Tax Credit would have been dropped.

8. It is further submitted by the learned counsel for the petitioner that the demand has been confirmed to the extent of Input Tax Credit as declared in the GSTR-09 returns for the respective tax periods, ignoring the fact that the overall Input Tax Credit available to the petitioner matched with the invoices in possession with the petitioner.

9. The learned counsel for the respondent, on the other hand, submits that the Typed Set of Papers filed along with the letter dated 09.09.2025 was not available at the time of the personal hearing on 29.08.2025. Therefore, it is contended that the petitioner cannot find fault with the impugned assessment orders.

10. It is further submitted by the learned Government Advocate for the Respondents that the impugned orders are detailed orders passed after considering the reply of the petitioner and the additional submissions filed by the petitioner to the respective Show Cause Notices that preceded the impugned assessment orders.

11. After hearing the learned counsel for the petitioner and the learned counsel for the respondent, it transpires that the petitioner's contentions now before this Court have not been specifically dealt with in detail either by the petitioner in the reply dated 10.06.2025 or in the additional reply dated 26.08.2025 or in the additional submission which is stated to have filed on 08.09.2025. The impugned assessment orders passed for the respective tax periods also do not make any reference to the aforesaid Reply / submissions of the petitioner.

12. On a perusal of the Annual return in Form GSTR-09 filed by the petitioner, p*rima facie* indicates that a mistake was committed by the petitioner while filling in the details. This would however require a detailed consideration by the respondent.

13. The additional reply dated 08.09.2025 of the petitioner which is stated to have been filed after the personal hearing conducted on 29.08.2025 also does not clearly bring out the explanation now advanced before this Court.

14. Considering that the disputed amounts are substantial, one more opportunity can be granted to the petitioner to explain the case clearly, along with all invoices and other required documents as Annexures to substantiate the case that there was incorrect transcription of the data while filing returns in Form GSTR-09. The petitioner shall also furnish their relevant GSTR-2A, GSTR-2B, and GSTR-3B returns filed for the respective Tax periods.

15. As far as the E-way bills are concerned, the petitioner shall establish the movement of goods by producing all the e-way bills for the disputed tax periods together with transport documents such as long receipt and toll charges. The petitioner cannot rely on sample documents to establish its case. Therefore, the petitioner shall submit a detailed Reply / Submission along with all the above details within a period of thirty (30) days from the date of receipt of a copy of this order.

16. Considering the fact that the petitioner has already been given several opportunities but has had failed to clearly establish his case before the respondent, as a condition for *de novo* adjudication, the case is remitted back to the second Respondent to pass a fresh order, subject to the petitioner shall pay a cost of Rs.25,000/- to the Madras High Court Advocates' Clerks Welfare Association, Chennai, within a periold of thirty (30) days from the date of receipt of a copy of this order.

17. Upon the petitioner complying with the above stipulations and producing proof of its compliance with the second Respondent, the second 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 from the date of such reply payment. Subject to such compliance by the petitioner, the attachment of the petitioner's bank account shall stand automatically lifted/vacated.

18. In the event the petitioner fails to comply with any of the above stipulations, the respondent shall be at liberty to proceed against the petitioner to recover the tax in accordance with law, as if these writ petitions had been dismissed *in limine* today.

19. Needless to state, the 2nd Respondent shall give due opportunity to the petitioner before passing any such orders.

20. These writ petitions stand disposed of with the above observations. No costs. Connected writ miscellaneous petitions are closed.

18.12.2025

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Neutral Citations: Yes/No

To:

1. Joint Commissioner (ST), Intelligence – II,
   No.1, PAPJM Buildings, Greams Road,
   Thousand Lights, Chennai – 600 006.

2. State Tax Officer,
   Group-II, Intelligence – II,
   No.1, PAPJM Buildings, Greams Road,
   Thousand Lights, Chennai – 600 006.

C.SARAVANAN, J.

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