IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2025

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 49462 of 2025
and W.M.P. Nos.55262 & 55264 of 2025

Shiminko Engineering And Construction India
Private Limited,
Represented by Mr. Sang Man shim, Director,
No.12/8B, Vellanthangal Village, Thandalam,
Sriperumbudur, Kancheepuram District,
Tamil Nadu 602 117.

..Petitioner(s)

Vs

State Tax Officer,
Sriperumbudur Assessment Circle,
Station No 4/109, Chennai Bangalore Road,
Nazarathpet, Chennai 600 123.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records of the case relating to the impugned Order Reference No.ZD330724217193M dated 18.07.2024 with proceedings thereon bearing GSTIN: 33AABCD6485C1ZW/2019-20 dated 18.07.2024 of the respondent and to quash the same.

For Petitioner(s): Mr.J. Shankarraman

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate

ORDER

Mr.V.Prashanth Kiran, 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 18.07.2024 passed for the tax period 2019-2020. The impugned order is an exparte as the Petitioner failed to respond to the Show Cause Notice in DRC – 01 dated 20.05.2024 and appear for the personal hearing fixed on 19.06.2024.

4.The demand that was proposed in the Show Cause Notice in DRC-01 dated 20.05.2024 has been confirmed in the impugned order as under:

DEFECT	SGST	CGST	IGST	Pty. SGST	Pty CGST
Non filing of Annual Return GSTR 9 and GSTR 9C	0.00	0.00	0.00	25,000.00	25,000.0
Belated filing of monthly returns	52,336.08	50,936.32	0.00	0	0
Non submission of documents for audit	0.00	0.00	0.00	25,000.00	25,000.00

ITC claimed beyond the time limit	17,47,950.00	17,47,950.00	0.00	0	0
	18,00,286.08	17,98,886.32	0.00	50,000.00	50,000.00

REVENUE ABSTRACT FOR THE YEAR 2019-2020

ACT	Tax Due	Interest	Penalty	Total
CGST	1798886	1375039	229889	3403814
SGST	1800286	1376109	230029	3406424
Total	**3599172**	**2751148**	**459918**	**6810238**

5.Part of the demand that was confirmed in the impugned order pertains to belated availing of Input Tax Credit in the light of Section 16(4) of the respective GST Enactments. However, by way of a statutory intervention, the aforesaid issue is settled in favour of the Petitioner.

6.To that effect, Sections 16 (5) and 16 (6) was inserted vide Finance Act (No.2), 2024 (15 of 2024) dated 16.08.2024 w.r.e.f 01.07.2017, which reads as under:-

> "**Section 16(5)-** Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November,2021.

Section 16(6)- Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section39-

(i) filed up to thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later.]

7.Thus, if the Petitioner has satisfied the other requirements of Section 16 of the respective GST Enactments, the Petitioner will be entitled to avail the Input Tax Credit even if the Petitioner had not filed the rectification application as is contemplated under Section 16(6) of the respective GST Enactments, as it has been held to be directly and not mandatory.

8.Considering the same, the impugned order is quashed and the case is remitted back to the Respondent to pass fresh orders on merits. However, the Petitioner shall deposit the entire amount confirmed towards penalty for belated filing of the Annual Return in GSTR 9 and GSTR 9C and amount confirmed towards belated filing of the monthly returns and towards non-submission of the documents as ordered in the impugned order within a period of 30 days from the date of receipt of a copy of this order.

9.Within such time, the Petitioner shall file a proper reply which shall be construed as an application filed for rectification of the order impugned for the purpose of Sections 16(5) and 16(6) of the respective GST Enactments.

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

18-12-2025
(1/2)

Index : Yes / No
Neutral Citation : Yes/No
GSA
To
State Tax Officer,
Sriperumbudur Assessment Circle,
Station No 4/109, Chennai Bangalore Road,
Nazarathpet, Chennai 600 123.

C.SARAVANAN, J.

GSA

WP No. 49462 of 2025

and W.M.P. Nos.55262 & 55264 of 2025

18-12-2025

(1/2)