BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)Nos.6008 and 6009 of 2025
and
W.M.P.(MD)Nos.4406, 4408, 4409, 4410, 4411 and 4412 of 2025

Tvl.Akilam Traders,
Represented by its Partner,
Harigopalan Haridhas,
7-25 A8, Kaniyanvilai,
Mondaikkadu Post,
Kanniyakumari. ... Petitioner in both W.Ps.

-vs-

The Deputy State Tax Officer – I,
Thuckalay - 2, Assessment Circle,
Nagercoil. ... Respondent in both the W.Ps.

PRAYER in W.P.(MD)No.6008 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned Assessment Orders passed by the respondent in Form GST DRC 07 vide GSTIN : 33ABRFA4794R1ZG/2020-2021, dated 17.10.2024 and the consequential recovery notice issued by the respondent dated 20.01.2025 and quash the same and consequently, direct the respondent to de-freeze the petitioner's Bank account number 272302000000237 with Indian Overseas Bank and re-open the proceedings pursuant to the impugned order passed by the respondent dated 17.10.2024 by providing another opportunity to the petitioner.

PRAYER in W.P.(MD)No.6009 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned Assessment Orders passed by the respondent in Form GST DRC 07 vide GSTIN : 33ABRFA4794R1ZG/2021-2022, dated 17.10.2024 and the consequential recovery notice issued by the respondent dated 20.01.2025 and quash the same and consequently, direct the respondent to de-freeze the petitioner's Bank account number 272302000000237 with Indian Overseas Bank and re-open the proceedings pursuant to the impugned order passed by the respondent dated 17.10.2024 by providing another opportunity to the petitioner.

For Petitioner in both the W.Ps. : Ms.A.Lakshmi

For Respondent in both the W.Ps. : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

Heard Ms.A.Lakshmi, learned counsel for the petitioner and Mr.J.K.Jayaselan, learned Government Advocate for the respondent.

2. The Writ Petitions are filed challenging the impugned order dated 17.10.2024, for the assessment years 2020 – 2021 and 2021-2022.

3. The learned counsel for the petitioner submits that the assessment orders were passed without granting the petitioner an opportunity to be heard. She further contends that while passing the impugned orders, the respondent erroneously assessed the ITC available in GSTR-2A. This fundamental computational error in determining the eligible ITC reflects a blatant non-application of mind by the respondent in the adjudication process. Such a manifest error in quantification vitiates the very foundation of the impugned orders, rendering them unsustainable in the eye of law.

4. The learned Government Advocate appearing for the respondent submits that the assessment orders were passed in compliance with the provisions of the GST Act and after duly considering the relevant materials. The learned Government Advocate further submits that the petitioner was given adequate opportunities to present their case prior to the passing of the impugned orders. The learned Government Advocate for the respondent further contends that the assessment of ITC available in GSTR-2A was carried out in accordance with the relevant provisions and applicable rules and discrepancies or computational issues, if any, are purely procedural in nature and the same do not affect the substance of the assessment. Therefore, the learned Government Advocate submits that the impugned orders are valid and prayed for dismissal of the Writ Petitions.

5. Heard both sides.

6. After considering the submissions made by both parties, this Court is of the view that the respondent's failure to grant the petitioner an opportunity to be heard, as required under the principles of natural justice, is a serious procedural flaw. Furthermore, the fundamental error in the assessment of ITC, particularly, in relation to GSTR-2A, indicates a lack of due diligence on the part of the respondent. This computational mistake, as pointed out by the petitioner, vitiates the very basis of the impugned orders.

7. In the light of the above, this Court quashes the impugned orders dated 17.10.2024 and remands the matter back to the respondent for fresh consideration. The respondent is directed to grant the petitioner a full and fair opportunity to be heard and to reconsider the claim of the petitioner, taking into account the correct assessment of ITC and pass appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order.

8. With the above directions, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No **07.03.2025**
Index : Yes / No
smn2

To:-

The Deputy State Tax Officer – I,
Thuckalay - 2, Assessment Circle,
Nagercoil.

VIVEK KUMAR SINGH, J.

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Common order in
W.P.(MD)Nos.6008 and 6009 of 2025

07.03.2025