BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.06.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.16075 of 2025
and
W.M.P.(MD) Nos.12189 & 12192 of 2025

Tvl .Sri Vinayagar Steels,
rep. by its Partner A.Senthil Athiban. ... Petitioner

Vs

1. The Assistant Commissioner (ST),
Commercial Tax Department,
Sivagangai.

2. The Deputy Commissioner (GST-Appeal),
Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in respect of impugned order under Section 74 of the TNGST Act, 2017- Reference No. ZD3310242223045, dated 29.10.2024 and Summary of the Order DRC-07 dated 29.10.2024 along with Annexure to DRC-07 dated Nil-10-2024 in GSTIN.

33ABOFS6144A1ZC/2017-18 passed by the first respondent and quash the same as it is illegal and in gross violation of principles of natural justice and further, direct the first respondent to re-assessment afresh after providing opportunity of personal hearing as per provisions of the GST Act, 2017.

For petitioner : Mr. M.Kumar

For respondents :Mr.J.K.Jayaselan

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ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has suffered impugned Assessment Order, dated 29.10.2024 passed for the Assessment Year 2017-18 passed by the first respondent.

3. It appears that the petitioner was a Sales Tax assessee under the provisions of Tamilnadu Value Added Tax (TNVAT), 2006 and had certain Input Tax Credit under Rule 19 of TNVAT, 2006. It remained un-utilised as on

13.06.2017 without filing TRAN-1 application. The petitioner has availed Input Tax Credit as ostensibly remained un-utilised under the provisions of TNVAT, 2006 without following procedure under Section 140 of TNGST Act, 2017. Further, the petitioner has also not replied to the Show Cause Notice.

4. Under the similar circumstances, this Court has taken consistent view to rescue the persons, like the petitioner by quashing the impugned order, subject to the payment of 25% of the disputed tax.

5. Considering the same, the impugned order passed by the respondent is quashed and the case is remitted back to the first respondent to pass fresh orders *de nova* on merits and in accordance within a period of six (6) months from the date of receipt of a copy of this order, subject to the petitioner depositing 25% of the disputed amount as pre-deposit in cash.

6. The impugned order, which stands quashed, shall be treated as corrigendum to the notice that preceded the impugned order.

7. The petitioner shall file a reply to the show cause notice that preceded the impugned order within a period of 30 days from the date of receipt of a copy of this order, along with the said deposit.

8. The first respondent shall, thereafter, proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of three (3) months. Needless to state, the petitioner shall be heard before passing such order.

9. If the petitioner does not comply with the above requirements within stipulated time, this Writ Petition shall automatically stand dismissed, in which the first respondent is at a liberty to proceed against the petitioner in accordance with law.

10. This Writ Petition is disposed of, with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

16.06.2025

To
1. The Assistant Commissioner (ST),
Commercial Tax Department,
Sivagangai.

2. The Deputy Commissioner (GST-Appeal),
Madurai.

C.SARAVANAN, J.

apd

W.P.(MD) No.16075 of 2025

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