BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2025

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THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P.(MD) Nos.16343 & 16344 of 2025
and
W.M.P.(MD) Nos.12417, 12418 & 12420 of 2025

Tvl. Sri Balaji Metal Trading,
Rep. by its Partner: G.Karthikeyan,
51, Rajiv Gandhi Nagar,
Avaniyapuram Main Road,
Madurai - 625 005. ... Petitioner in both W.Ps.

Vs.

The Deputy State Tax Officer-1,
Thirupparankuntram Assessment Circle,
Madurai – 20. ... Respondent in both W.Ps.

Prayer in W.P.(MD) No.16343 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the file of the respondent in GSTIN: 33ACGFS1555C1ZH/2019-20 dated 15.08.2024 and uploaded in the portal FORM GST DRC-07 issued in Reference No.ZD330824127081Q dated 15.08.2024 and quashing the same as illegal and amount to double taxation.

Prayer in W.P.(MD) No.16344 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the file of the respondent in GSTIN: 33ACGFS1555C1ZH/2019-20 dated 11.03.2025 and the order of rejection of application for rectification issued in Reference No:ZD3303250669282, dated 11.03.2025 and quashing the same as illegal and against the provisions of GST Act.

For Petitioner in both W.Ps.	: Mr.A.Chandra Sekaran
For Respondent in both W.Ps.	: Mr.R.Suresh Kumar Additional Government Pleader

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COMMON ORDER

By this common order, both these Writ Petitions are being disposed of.

2. The petitioner has suffered the assessment order dated 15.08.2024, wherein a part of the demand was relating to the issue arising out of Section 16(4) of the TNGST Act/CGST Act, 2017, as per which, a registered person shall not be entitled to claim input tax credit in respect of any invoice or debit note for the supply of goods or services after the

due date for furnishing the return for the month of September following the end of the financial year to which such invoice or debit note pertains, or the date of furnishing of the relevant annual return, whichever is earlier.

3. It is the specific case of the petitioner that, out of the total demand of Rs.7,23,584/-, the portion relating to the issue arising out of Section 16(4) of the Act amounted to Rs.2,98,748/- was paid by the petitioner on 12.09.2022 and 16.09.2022. It is submitted that the said amount paid by the petitioner is liable to be refunded in view of the insertion of Section 16(5) into the respective Acts by the Finance (No.2) Act, 2024 [Act No.15 of 2024], dated 16.08.2024, with effect from 01.07.2017.

4. It is submitted that, as per the aforesaid amendment, notwithstanding anything contained in sub-section (4) of Section 16 of the Act, in respect of any invoice or debit note for the supply of goods or services or both pertaining to the financial years 2017-18 to 2020-21, the registered person shall be entitled to avail input tax credit in any return under Section 39 of the Act filed up to 30th November 2021. It is the case

of the petitioner that the returns for February 2020 and March 2020 were filed on 18.12.2020 and 21.12.2020, respectively. Therefore, the amount of Rs.2,98,748/- ought not to have been confirmed by the impugned order dated 15.08.2024.

5. The petitioner has, therefore, filed an application under Section 161 of the TNGST Act, 2017, which came to be rejected vide order dated 11.03.2025, impugned in W.P.(MD) No.16344 of 2025, based solely on a Circular and without any discussion. It is, therefore, submitted that the impugned orders are liable to be quashed.

6. The learned counsel for the petitioner submits that, at this distant point of time, the appellate remedy under Section 107 of the TNGST Act / CGST Act, 2017, against the impugned order dated 15.08.2024, has become redundant in view of the limitation prescribed under Section 107 of the Act. Therefore, on this ground also, the impugned order is liable to be quashed.

7. Opposing the prayer, the learned Additional Government Pleader appearing for the respondent submits that the petitioner has forfeited the

right by not filing the statutory appeal under Section 107 of the Act within the prescribed time, and therefore, the petitioner is not entitled to seek any relief in this writ petition, in view of the decision of the Hon'ble Supreme Court in ***Assistant Commissioner (CT), LTU, Kakinada and others vs. Glaxo Smithkline Consumer Health Care Limited***, 2020 SCC OnLine SC 440.

8. That apart, the learned Additional Government Pleader appearing for the respondent submits that the petitioner has an alternate remedy against the order dated 11.03.2025, dismissing the rectification application filed by the petitioner, under Section 107 of the TNGST Act / CGST Act, 2017, and hence, prays for dismissal of both writ petitions.

9. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, and having perused the impugned orders and the amendments to Section 16 of the TNGST Act / CGST Act, 2017 in the year, I am of the view that the petitioner has made out a good case for interference, although the submission of the learned counsel for the petitioner that the petitioner has no right to work out the appellate remedy in view of Section

14 of the Limitation Act, 1963 will gain some rigor in favour of the petitioner.

10. However, it is noticed that the rectification application filed by the petitioner against the assessment order dated 15.08.2024 has been rejected summarily without any discussion. Therefore, I am left with no other option but to quash the order dated 11.03.2025, impugned in W.P.(MD) No.16344 of 2025, with a direction to the respondent to pass a fresh order after considering the submissions of the petitioner on merits.

11. Accordingly, W.P.(MD) No.16343 of 2025 is disposed of, and W.P.(MD) No.16344 of 2025 is allowed. No costs. Consequently, the connected Miscellaneous Petitions.

18.06.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes/No
Speaking Order / Non-Speaking Order

To
The Deputy State Tax Officer-1,
Thirupparankuntram Assessment Circle,
Madurai - 20.

C.SARAVANAN, J.

JEN

W.P.(MD) Nos.16343 & 16344 of 2025

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