BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**Writ Petition(MD)No.23285 of 2025**

M/s V M Kalidhas Contractor
Rep by its Proprietor, VM Kalidhas, No.6/80,
Thirumurugan Complex, Avudaiyarkovil
North, Pudukottai, Tamil Nadu 614 618.

... Petitioner

Vs.

The State Tax Officer
Aranthangi Assessment Circle,
Pudukkottai Zone,
Commercial Taxes Department, Trichy.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus or any other appropriate writ, order or direction quashing the impugned Assessment Order No ZD3302252420802 dated 24.02.2025. b)To quash the Rejection Order of Rectification Application No.ZD330625045161R dated 05.06.2025 passed without jurisdiction and in violation of law. c) To direct the Respondent to take fresh adjudication proceedings by granting a fair opportunity of hearing and considering all reconciliations, documents, voluntary payments, government notifications, and legal provisions. d) To declare the illegal levy of interest, penalty, and late fees as void and not binding on the petitioner pending reassessment. e) To restrain the

Respondent from initiating or continuing any recovery proceedings based on the impugned orders till fresh determination. f) To grant such other or further relief as this court may deem fit in the interests of justice and equity.

For Petitioner : Mr.A.K.H.M.Mohamed Abdul

For Respondent : Mr.J.K.Jayaselan
Govt. Advocate

**ORDER**

The petitioner is before this Court challenging the impugned order dated 24.02.2025 passed under Section 73 of the respective GST enactments. The said order was preceded by a notice in DRC-01 dated 25.11.2024. Aggrieved by the impugned order, the petitioner filed a rectification application on 28.04.2025, which came to be dismissed by the respondent on 05.06.2025, holding that there was no error apparent on the face of the record and that Section 161 permits only rectification of clerical errors. The operative portion of the order dated 05.06.2025 rejecting the application for rectification under Section 161 of the GST enactments reads as follows:

> "Tvl.V.M.KALIDHAS CONTRACTOR, NO.6/80, THIRUMURUGAN COMPLEX, AVUDAIYARKOVIL NORTH, Pudukkottai, Tamil Nadu, 614 618 is a

registered taxable person in the books of the State Tax Officer, Aranthangi Assessment Circle under CGST Act, 2017 and having GSTN 33AIRPK6216F2Z9.

DRC 07 – demand order passed on 31.08.2024. As per the Circular No.04/2025, dated 16.05.2025 of the TNGST Act 2017 issued by Commissioner of Commercial Taxes, Chennai. Rectification order should processed only in the grounds of clerical error. Hence, this rectification application is rejected.

2. Learned counsel for the petitioner submits that the petitioner has been denied the principles of natural justice inasmuch as the order has been passed without affording an opportunity of personal hearing.

3. Per contra, the learned Government Advocate appearing for the respondent drew attention to a recent decision of this Court in ***W.A.(MD)No.1861 of 2025 (Eminent Textile Mills Private Limited vs. State Tax Officer, 2025 SCC OnLine Mad 3302)*** interpreting Section 161 of the GST enactments, wherein it has been held that when a rectification application is filed at the instance of the aggrieved party, the question of granting personal hearing does not arise. In this connection, paragraphs 5 and 6 of the said decision read as follows:

"5.An order dismissing a rectification application is also an adverse decision. The question that calls for consideration is whether the third proviso to Section 161 of TNGST Act, 2017 requires complying with the principles of natural justice even for dismissing a rectification petition. To answer this question, we have to read the provision in its entirety. The provision had already been extracted in full. It is seen that the main provision empowers the assessing officer to rectify any error which is apparent on the face of the record either on his own motion or when it is brought to his notice by any officer appointed under TNGST Act or CGST Act or by the affected person. The third proviso to Section 161 alone is material for the present purposes. It reads as follows :

"Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification."

It is obvious that the words "such rectification" refer to rectification contemplated in the main provision which could be as a result of any of the three contingencies referred to therein. The three contingencies are

1.suo motu

2.on reference from any officer

3.on application by the affected person

The word "rectification" means correction of an error or removal of a defect. "Rectify" means correcting/amending (vide P.Ramanatha Aiyar-s Advanced Law Lexicon). Rectification in the very nature of things involves alteration. Where there is no alteration, there is no rectification. The third proviso will kick in only when there is rectification and the said rectification affects any person. In other words, these two elements must be present to trigger the application of the third proviso. When the rectification application is dismissed as such without there being anything more, the original order stands as such. In that event, there is no rectification at all. When there is no rectification, there is no question of invoking the principles of natural justice. It is one thing to say that the principles of natural justice must be read into the Section. It is entirely another thing to say that the third proviso to Section 161 of TNGST Act demands following the principles of natural justice even when there is no rectification. A plain reading of the said proviso does not yield any conclusion that formation of an adverse view while disposing of the rectification application would require complying with the principles of natural justice. That is not the plain meaning of the proviso. When the legislature has consciously indicated as to when the principles of natural justice should be followed, it is not for the writ court to add further circumstances or situations. The third proviso talks of rectification which is a positive act. ?Refusal to rectify? cannot be read into the expression ?such rectification?. This situation is not envisaged by the

> third proviso.
>
> 6.With utmost respect to the learned Judges, we are unable to agree with their interpretation of the third proviso. There is no requirement that before dismissing the rectification application, the authority must hear the applicant. The order of the learned Single Judge is confirmed. The appellant is given two more weeks from today to file an appeal against the order impugned in the writ petition. If such an appeal is filed within the time limit mentioned above, it shall be entertained without reference to limitation. The appellant should of course comply with the other statutory requirements if any.

4. Although the principles of natural justice have to be read into the statute even in the absence of an express provision for personal hearing, this Court is bound by the decision of the Hon'ble Division Bench in ***W.A.(MD)No.1861 of 2025 (Eminent Textile Mills Private Limited vs. State Tax Officer, 2025 SCC OnLine Mad 3302***). In view of the said binding precedent, this writ petition is liable to be dismissed and is accordingly dismissed. However, liberty is granted to the petitioner to file a statutory appeal against the assessment order dated 24.02.2024. The appellate authority shall entertain such appeal and dispose of the same on merits, provided the appeal is filed

within a period of 15 days from the date of receipt of a copy of this order. Since the petitioner had already filed an application for rectification, the time consumed during the pendency of the said application shall be excluded by applying the principle under Section 14(2) of the Limitation Act, 1962. No costs.

**28.08.2025**

NCC : Yes/No
Index : Yes/No
Internet:Yes
skn

To

The State Tax Officer
Aranthangi Assessment Circle,
Pudukkottai Zone,
Commercial Taxes Department, Trichy.

**C.SARAVANAN, J.**

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28.08.2025