BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.32402 of 2025 AND
W.M.P.(MD)No.25504 of 2025

Sai Bharath Gas Agency,
Rep. by its Proprietor,
S.Jothi,
26A, Sivan Koil Street,
Sendurai,
Ariyalur – 621 714. ... Petitioner

Vs.

The Assistant Commissioner of GST and
Central Excise,
Trichy II Division,
Trichy District. ... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in original No.4/2024-GST, dated 01.04.2024 under Section 73 of CGST Act 2017 passed by the respondent and to quash the same, in view of amended / inserted Section 16(5) of the CGST Act 2017 as amended by Finance (No.2) Act 2024 further direct the respondent to pass an assessment order afresh after affording opportunity of being heard.

For Petitioner : Ms.S.Ragaventhre
For Respondent : Mr.R.Gowri Shankar

* * *

ORDER

Heard both sides.

2.The case on hand pertains to the assessment order 2018 – 2019. Show cause notice was issued under Section 73(1) of CGST Act. Thereafter, the impugned order came to be passed on 01.04.2024. The case on hand pertains to reversal of input tax credit under Section 16(4) of the Act. A similar issue was dealt with by this Court in the decision reported in ***(2024) 21 Centax 512 (Mad.) (Sagar Brush Industries Vs. State Tax Officer, Assistant Commissioner (ST), Madurai.)*** Paragraph Nos.4 to 7 of the said decision read as follows:

> "4.Already today, few orders have been passed, wherein under similar circumstances, the respective Assessment Orders as also the order passed by the Appellate Authority under Section 107 of the respective GST Enactments have been set aside and the cases were remitted back in the light of Clauses 114 and 146 of the proposals in the Finance (No.2) Bill, 2024, presented on 23.07.2024.

Wherever there is a delay in availing input tax credit for the Assessment Years 2017-2018 upto 2020-2021, the Parliament has extended an olive branch to taxpayers in terms of the proposals contained in Clause 114 of the Finance (No.2) Bill, 2024. This Clause seeks to amend Section 16(4) of the CGST Act by adding subsections 5 and 6. Clause 114 seeking to amend Section 16 of the CGST Act, 2017, reads as under:

> ''114. In section 16 of the Central Goods and Services Tax Act, with effect from the 1st day of July, 2017, after subsection (4), the following subsections shall be inserted, namely:––
>
> "(5) Notwithstanding anything contained in subsection (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 upto the thirtieth day of November, 2021.
>
> (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 section 39,–

(i) filed upto 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."

5.The above concession is with a rider in Clause 146 of the Finance (No.2) Bill, 2024 (Bill No. 55 of 2024), wherein it has been stated as follows: '

'146.No refund of tax paid or input tax credit reversed. No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 114 been in force at all material times.''

6.It is most likely that similar proposals will also be made to the provisions of the TNGST Act, 2017 as and when the State Budgets are presented, as the amendments to the Central Act will have a corresponding amendments in the respective State Enactments to levy GST. These are pursuant to the recommendation of the GST Council in its 53rd Meeting held on 22.06.2024.

7.Since the Parliament itself has come to the rescue of the assessees, I am of the view that the impugned orders passed by the Original Authority as also the Appellate Authority upholding the orders of the Assessing Officer in the batch of Writ Petitions are set aside and the cases are remitted back to the Assessing Officer to pass a fresh order on merits strictly in accordance with the Finance Act, 2024. In case, the proposals in Clauses 114 and 146 of the Finance (No.2) Bill, 2024 are accepted and enacted in the Finance Act, 2024, the benefit of these provisions may be extended to the respective petitioners."

3.This writ petition is also disposed of on the same lines. No costs. Consequently, connected miscellaneous petition is closed.”

17.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.32402 of 2025

17.11.2025