BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 02.12.2025

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.34878 of 2025
and
W.M.P.(MD)No.27567 of 2025

Tvl.S.P.G.Traders,
Represented by its Proprietor,
G.Abishek aged about 34 years,
S/o. Gopalan,
No.203, Pattali Street,
Kurumbar Street,
Adivaram,
Palani,
Dindigul District – 624 601. ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner,
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The State Tax Officer,
Palani – I Assessment Circle,

Near Periya Auvudaiyar Kovil Arch,
Kothaimangalam (P.O.),
Palani,
Dindigul District – 624 618. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned order of the second respondent in Reference No.ZD330424186201R/2018-19 dated 24.04.2024 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.R.Suresh Kumar,
Additional Government Pleader

O R D E R

This Writ Petition has been filed seeking to quash the impugned order of the second respondent in Reference No.ZD330424186201R/2018-19 dated 24.04.2024.

2.With the consent of both parties, this Writ Petition is taken up for final disposal.

3.Learned Counsel for the petitioner would submit that during the assessment year 2018-19, the petitioner claimed and availed input tax credit to the tune of Rs.8,95,454/-. The petitioner claims that they claim of ITC are duly covered by valid tax invoices as required under the Act. However, the second respondent issued a show cause notice dated 07.03.2023, alleging that there is excess claim of input tax credit to the tune of Rs.7,05,194/- and demanded the same, with interest and penalty.

4.Learned Counsel for the petitioner further submitted that the difference in the claim of ITC had occurred due to the misreporting of the sales by the seller, since they reported as business to customer instead of business to business. He referred to Circular No.183 issued on 27.12.2022, which states that if any certificate is produced from the Chartered Accountant, the same can be accepted and the officer can permit the petitioner to avail the ITC. He further submitted that the impugned assessment order has been without providing an opportunity to the petitioner to produce the said certificate and also without referring to the said circular dated 27.12.2022, which the department is well aware of.

5.He would further submit that the petitioner is ready and willing to deposit 25% of the disputed amount, in the event the Court is inclined to set aside the impugned order. The petitioner is also willing to produce the Chartered Accountant certificate.

6.Per Contra, learned Additional Government Pleader appearing for the respondents would fairly submit that the impugned assessment order has been passed without providing an opportunity of hearing to the petitioner. Under these circumstances, subject to the payment of 25% of the disputed amount, he prays that the matter may be remanded back to the respondents for re-consideration.

7.Heard the learned Counsel on either side.

8.In the present case, the petitioner's vendor while filing GST R 3B, have reported the present transaction as business to customer instead of business to business. Therefore, it was an error committed by the seller. Therefore, the respondents have denied the ITC. However, the petitioner would submit that his client was not aware of the Circular No.183 dated 27.12.2022 and hence, they did not produce the certificate of the chartered Accountant. Further, the petitioner is willing to produce the said certificate, which can very well be accepted by the assessing officer and the petitioner may be permitted to avail the ITC. However, it is found that there is no loss caused to the revenue. Because of the wrong filing of Form GST R 3B, the petitioner cannot be deprived of his right to avail the ITC in accordance with law, which he is legally entitled to. Such being the case, this Court is inclined to set aside the impugned order.

9.Accordingly, the impugned order of the first respondent dated 24.04.2024, is set aside, subject to payment of 25% of the disputed amount by the petitioner within a period of four [4] weeks form the date of receipt of a copy of this order. Once the payment is made, the petitioner is granted liberty to file additional reply along with Chartered Accountant's certificate, if any, within a period of two [2] weeks time and thereafter, the second respondent is directed to pass the assessment order taking into consideration the certificate of the Chartered Accountant and also the Circular No. 183 dated 27.12.2022 and permit the petitioner to avail the ITC in accordance with law.

10. Accordingly, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

02.12.2025

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
MR

To

1.The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner,
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The State Tax Officer,
Palani – I Assessment Circle,
Near Periya Auvudaiyar Kovil Arch,
Kothaimangalam (P.O.),
Palani,
Dindigul District – 624 618.

KRISHNAN RAMASAMY, J.

MR

W.P.(MD)No.34878 of 2025

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