IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.2968, 2971, 2991, 2995 and 160 of 2026
and
W.M.P.Nos.3323, 3324, 3328, 3329, 3353, 3354, 3358, 3359, 173, 175 and 176 of 2026

M/s.Greenwood Training Company,
Represented by its Senior Manager (Accounts)
and its Authorised Signatory,
Mr.A.Veeramani. ... Petitioner in W.P.Nos.2968, 2971, 2991 and 2995 of 2026

M/s.Greenwood Training Company,
Represented by its Authorised Signatory
Mrs.C.V.Suriya ... Petitioner in W.P.No.160 of 2026

Vs.

1.The Appellate Deputy Commissioner (ST),
GST-Appeal, Chennai – II,
PAPJM Building, 2nd Floor,
Greams Road, Chennai – 600 006.

2.The State Tax Officer,
Group – II, Inspection – II,
No.1, Greams Road, Chennai – 600 006.

3.The Assistant Commissioner (ST),
Sriperumbudur Assessment Circle,
Commercial Taxes Building,
Bangalore High Road, Nazarathpet,
Poonamallee – 600 123. ... Respondents in W.P.Nos.2968, 2971, 2991 and 2995 of 2026

1.The Assistant Commissioiner (ST),
Sriperumbudur Assessment Circle,
Commercial Taxes Building,
Bangalore High Road,
Nazarathpet, Poonamallee – 600 123.

2.The Appellate Deputy Commissioner (ST),
GST-Appeal, Chennai – II,
PAPJM Building, 2nd Floor,
Greams Road, Chennai – 600 006.

3.The Bank Manager,
Pubjab National Bank,
Near Rajalakshmi Teacher Training Institute,
Chennai – Bangalore Highway,
Sirperumbudur Taluk. ...Respondents in W.P.No.160 of 2026

Prayer in W.P.No.2968 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings of the first Respondent in Appeal No and Year AP/GST/429/2021 for the assessment year 2017-18, together with the consequential summary of Demand in Form GST APL – 04 bearing Order No.ZD330925443232I dated 30.09.2025 which confirmed the Order passed by the second Respondent in Order No.GST No.33AAIFG9284A1ZH/2017-2018 imposing penalty under Section 122(1)(ii) of the CGST/TNGST Act, 2017 dated 24.03.2021 and quash all the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017, as against the principles of natural justice.

Prayer in W.P.No.2971 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings of the first Respondents in Appeal No and Year AP/GST/427/2021 for the assessment year 2018-19, together with the consequential summary of Demand in Form GST APL – 04 bearing Order No.ZD330925443174C dated 30.09.2025 which confirmed the Order passed by the second Respondent in Order No.GST No.33AAIFG9284A1ZH/2018-2019 imposing penalty under Section 122(1)(ii) of the CGST/TNGST Act, 2017 dated 24.03.2021 and quash all the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017, as against the principles of natural justice.

Prayer in W.P.No.2991 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings of the first Respondent in Appeal No and Year AP/GST/428/2021 for the assessment year 2019-20, together with the consequential summary of Demand in Form GST APL – 04 bearing Order No.ZD330925443095A dated 30.09.2025 which confirmed the Order passed by the second Respondent in Order No.GST No.33AAIFG9284A1ZH/2019-2020 imposing penalty under Section 122(1)(ii) of the CGST/TNGST Act, 2017 dated 24.03.2021 and quash all the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017, as against the principles of natural justice.

Prayer in W.P.No.2995 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings of the first Respondent in Appeal No and Year AP/GST/426/2021 for the assessment year 2020-21, together with the consequential summary of Demand in Form GST APL – 04 bearing Order No.ZD3309254429705 dated 30.09.2025 which confirmed the Order passed by the second Respondent in Order No.GST No.33AAIFG9284A1ZH/2020-2021 imposing penalty under Section 122(1)(ii) of the CGST/TNGST Act, 2017 dated 24.03.2021 and quash all the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017, as against the principles of natural justice.

Prayer in W.P.No.160 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings of the first Respondent in GSTIN:33AAiFG9284A1ZH issued under Section 79(1)(c) of the CGST/TNGST Act, 2017 dated 30.12.2025 and the Form GST DRC – 13 dated 30.12.2025, both addressed to the third Respondent Bank and quash all the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017, and against the principles of natural justice.

For Petitioner (in all W.Ps)	:	Mr.P.Rajkumar
For Respondents (in all W.Ps)	:	Mr.C.Harsharaj Special Government Pleader

COMMON ORDER

Mr.C.Harsharaj, learned Government Advocate takes notice for the Respondent.

2. These Writ Petitions are being disposed of at the stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Government Advocate for the Respondent.

3. In these Writ Petitions, the Petitioner has challenged the impugned Orders of the 1st Respondent Appellate Authority dated 29.08.2025 which have accompanied summary of the order in Form GST APL - 04 dated 30.09.2025 for the respective tax periods 2017 – 2018 to 2020 - 2021.

4. By the impugned order, the Petitioner's appeal against impugned orders passed under Section 122(1)(ii) all dated 24.03.2021 have been rejected.

5. The 2nd Respondent / Original Authority passed under Section 122(1)(ii) all dated 24.03.2021 pursuant to an inspection held on 12.09.2020 at the premises of the Petitioner. Thereafter, notices were issued to the Petitioner for the respective tax periods in Form GST – DRC – 01 which called upon the Petitioner to furnish certain documents which were partly furnished. These documents were also produced before the 1st Respondent /

Appellate Authority who has found no reasons to interfere with the orders dated 24.03.2021 of the 2nd Respondent vide respective impugned orders.

6. W.P.No.160 of 2026, the Petitioner has also challenged the impugned bank attachment proceedings initiated by the office of the 2nd Respondent.

7. The Petitioner appears to be a dealer in Timber and Woods products. The allegations against the Petitioner was that the Petitioner has not produced any documents to prove that there was physical movement of the goods either into the Petitioner's premises or outside the Petitioner's premises and that the Input Tax Credit was not only wrongly availed but also passed by the Petitioner on the strength of various invoices and therefore the Petitioner was liable to penalty under Section 122(1)(ii) of the respective GST enactments.

8. The learned counsel for the Petitioner would endeavor to demonstrate and establish the case that there was a perversity in the impugned orders passed by the respective Respondents as the Petitioner has filed all the documents before the Respondents. The learned counsel for the

Petitioner would submitted that the respective Respondents have overlooked the same to confirm the penalty of the above provisions of the respective GST enactments.

9. The learned counsel for the Petitioner further submitted that the documents were furnished in two parcels both before the Respondent, which have been overlooked. That apart, it is submitted that the 1st Respondent while passing impugned orders rejecting the appeal of the Petitioner has erroneously concluded that the Petitioner was a non existent dealer and despite the fact that there was an inspection on 10.09.2020 and 12.09.2020 by the office of the 2nd Respondent at the Petitioner's place of business. It is therefore submitted that the 1st Respondent rejecting the appeal is inspired from an erroneous appreciation of facts and therefore it has been incorrectly concluded that the Petitioner has erroneously passed on the Input Tax Credit to various persons with whom the Petitioner had transaction by way of supply.

10. The learned Special Government Pleader for the Respondents on the other hand would submit that there is no merits in the challenge to the respective impugned orders and therefore these Writ Petitions are liable to be

dismissed both on account of existence of an alternate remedy before the Appellate Tribunal which is likely to be constituted in few weeks time and on merits.

11. It is submitted that the Petitioner has not produced any cogent evidence to establish the physical movement as was required under the provisions of the respective GST enactments and the rules made thereunder.

12. The learned Special Government Pleader for the Respondent also drew attention to the decision of the Hon'ble Supreme Court in ***State of Karnataka*** Vs. ***Ecom Gill Coffee Trading Private Limited*** reported in ***2023 SCC Online SC 248*** and the decision of this Court in ***Sahyadri Industries Limited*** Vs. ***State of Tamil Nadu*** reported in ***2023 SCC Online Mad 7905*** and therefore submits that these Writ Petitions be dismissed with exemplary costs.

13. I have considered the submissions made by the learned counsel for the Petitioner and the learned Special Government Pleader for the Respondents and also considered an affidavit filed in support of the present Writ Petitions and the documents that were produced before this Court.

14. The availability of Input Tax Credit is dependent on the existence of material evidence substantiating that the Input Tax Credit was availed validly before passing on such Input Tax Credit while discharging a tax liability towards supply. *Sine* q*uo non* to avail Input Tax Credit and to utilize the same for discharging the tax liability, there should be physical movement of goods which should proved by such documents which corroborate the documents generated under the Rules.

15. Even if for a part of the period in dispute is 2017-2018 and 2020-2021, there was no avenue for generating e-way bill. The requirement of establishing physical movement of goods cannot be dispatched with. Mere generation of e-way bill under Rule 138(1) is not suffer. It be accompanied with lorry receipts and transport documents, delivery challan etc., to establish physical movement of the goods inward and outward with the corresponding purchases invoices and supply invoices for validly availing Input Tax Credit and validly availing Input Tax Credit on tax on the supply.

16. As per Section 41 of the respective GST enactments, a registered person is entitled to take credit of eligible Input Tax as

self-assessed in the return, and such credit is to be credited to the Electronic Credit Ledger on a provisional basis. Thus, ITC is only provisional in nature and is subject to verification, matching, and fulfilment of conditions prescribed under Sections 16, 17, 18, and other relevant provisions of the GST enactments. The availment of such credit does not create any vested or indefeasible right in favour of the assessee until the statutory requirements are duly satisfied. The provisional credit is always liable to be reversed if, upon scrutiny or audit, it is found that the underlying transactions are not supported by genuine invoices or that the conditions for availment of ITC are not fulfilled.

17. Further, as per Rule 36(4) of the CGST Rules, 2017, input tax credit in respect of invoices or debit notes, the details of which have not been furnished by the supplier under Section 37(1), shall be restricted in the manner prescribed therein, and credit can be availed only to the extent reflected in Form GSTR – 2A / GSTR – 2B. Therefore, even the provisional credit under Section 41 is statutorily circumscribed by Rule 36(4), and therefore an assessee cannot claim unrestricted or automatic entitlement to ITC without compliance with the matching mechanism prescribed under the GST law.

18. Thus, the Burden of Proof is on an assessee both at the stage of availing Input Tax Credit and at the time of passing of such Input Tax Credit to a recipient. The Department is not required to establish the case beyond reasonable doubt, as the proceedings are based on preponderance of probability. At the same time, assessment cannot by sampling. Therefore it is mandatory on the part of the assessee to prove that Input Tax Credit was validly availed by establishing transportation and physical movements.

19. It is not for the Department to establish the case beyond reasonable doubts. In the facts of the present case, the truth lies in between. The Petitioner appears to have generated certain e-way bill some of which were filed before this Court. However, they have not been properly tabulated and explained. They have neither been tabulated before the 1st Respondent nor before the 2nd Respondent.

20. Since the 1st Respondent / Appellate Authority is also empowered to give a findings on facts, these cases are remitted back to the 1st Respondent to re-do the exercise subject to the Petitioner depositing a sum of Rs.75,00,000/- to secure the interest of the revenue within a period of three months from the date of receipt of a copy of this order considering the

amount confirmed vide order(s) dated 24.03.2021 passed by the 2nd Respondent.

21. Since the Petitioner's bank account was attached on 30.12.2025, a part of the amount lying from the Petitioner's bank account may be directly appropriated towards the same, towards aforesaid pre-deposit of Rs.75,00,000/-. The balance shall be paid by the Petitioner in three installments thereafter in six months.

22. Meanwhile, the Petitioner shall filed a proper reply with proper tabulation and explanation. The 1st Respondent shall thereafter pass final orders. If desired the 1st Respondent may seek the 2nd Respondent to arrive at a fair and correct conclusion on facts. Needless to state, such report shall be shared with the Petitioner.

23. Penalty under Section 122(1)(ii) should not be imposed particularly when a penalty under Section 122(1)(ii) of the respective GST enactments are usurious overlooking the explanation that may be offered by the Petitioner. Therefore, the 1st Respondent is directed to pass an order after examining all the documents.

24. The Petitioner shall co-operate with the Respondent. The Petitioner shall explain each of the purchase with supported necessary documents that the Petitioner was entitled to validly avail Input Tax Credit and to pass it on to its recipients. The 1st Respondent shall pass an order preferably within a period of 9 months from the date of receipt of a copy of this order. In case the Petitioner fails to cooperate with the Respondent either by depositing the balance amount or in filing the reply in time as may be specified by the 1st Respondent, orders shall be passed based on available materials.

25. These Writ Petitions stand disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

30.01.2026

Neutral Citation: Yes / No
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To:

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PAPJM Building, 2nd Floor,
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2.The State Tax Officer,
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4.The Bank Manager,
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C.SARAVANAN, J.

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