IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-02-2026

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 4156 of 2026
and
WMP NO. 4633 OF 2026, WMP NO. 4632 OF 2026

Lalitha.R
(Proprietor of Tvl.Muthu Agencies)
1/449 B R.K.Building Salem Main
Road Thalaivasal Attur Tk Salem Tamil
Nadu 636112

Petitioner(s)

Vs

The State Tax Officer (FAC)
Attur Town Circle,
Salem,
Tamil Nadu.

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC -07 with Ref. No. ZD330824209274I along with its detailed order in GSTIN 33AFXPL8470K1ZN/ 2019-2020 both dated 23.08.2024, quash the same or pass such further or other orders as it may deem fit and proper in the facts and circumstances of the case.

For Petitioner : Mr.N.Prasad

For Respondent : Mr.C.Harsharaj,
Special Government Pleader

ORDER

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

2. This Writ Petition is 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. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. In this writ petition, the petitioner has challenged the impugned Assessment order dated 23.08.2024 passed by the respondent for the tax period from April 2019 to March 2020 which was preceded by a Show Cause Notice in DRC-01 dated 21.05.2024 to which the petitioner failed to file a reply and has thus suffered the impugned Assessment order.

5. By the aforesaid impugned Assessment order, the following demand has been confirmed against the petitioner:

S.No.	Issue	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7
1	Total tax due in (Excess claim of ITC) above	235186	235186	53941	0	524313

2	Interest	197432	196782	45062	0	432976
3	Penalty on amount in S.No.1	23519	23519	20000	0	67038
	Total (1+2+3)	456137	455487	119003	0	1030627

6. The challenge to the impugned order is primarily on the ground that, in so far as the excess claim of ITC is concerned, the demand had already been confirmed by a separate order dated 28.11.2023 passed for the same tax period from April 2019 to March 2020. Against that order, the petitioner had filed an appeal with the mandatory pre-deposit 10% of the disputed tax confirmed vide Assessment order dated 28.11.2023 before the Appellate Authority on 16.02.2024, which is still pending.

7. The revenue abstract of the aforesaid earlier Assessment order dated 28.11.2023 passed earlier is reproduced for clarity.

	CGST	SGST
As per defect No.1 – ITC reversal determined / Tax payable	Rs.5601/-	Rs.5601/-
As per defect No.2 – ITC reversal determined on exemption sales 2674268 X 5072562 -------------------------- 57709279	Rs.235064/-	Rs.235064/-
Total Payable	Rs.240665/-	Rs.240665/-
Tax paid	Nil	Nil
Balance	**Rs.240665/-**	**Rs.240665/-**

8. A perusal of the above two tables prima facie indicates that there is overlap as well as a discrepancy in the computation of the alleged excess claim of ITC in the earlier Assessment order dated 28.11.2023 the demand was confirmed at Rs.2,35,064/- + Rs.2,35,064/- for CGST and SGST, whereas in the impugned order, on the very same issue, the demand has been confirmed as Rs.2,35,186/- + Rs.2,35,186/- for CGST and SGST and Rs.53,941/- for IGST towards excess input tax credit. Thus, there appear to be duplication of demand on the same subject matter. To that extent, the impugned order suffers from prima facie inconsistency and warrant reconsideration.

9. As far as the demand confirmed vide impugned Assessment order dated 23.08.2024 under the same defect towards IGST is concerned, the petitioner had filed an application for rectification on 24.10.2024, which was rejected by an order dated 08.01.2026 which was challenged by the petitioner in another W.P.No.4161 of 2026.

10. At this stage, the learned counsel for the Petitioner submit that the Petitioner is willing to pre-deposit another 40% of the disputed tax over and above 10% of the disputed tax already deposited at the time of filing an appeal against earlier Assessment order dated 28.11.2023 as a condition for *denovo* adjudication.

11. Under similar circumstances, Orders have been quashed and cases have been remitted back to the Respondents to pass a fresh order on terms subject to such Assessee depositing 25% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

12. Considering the same and to secure the interests of both the petitioner and the respondent, the case is remitted back to the respondent to redo the exercise, subject to the petitioner depositing 50% of the IGST confirmed by the impugned order, amounting to Rs.53,941/-. The respondent shall pass a fresh order on merits, taking note of the earlier order passed on 28.11.2023.

13. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

14. It is made clear that bank attachment shall be lifted subject to the Petitioner depositing 40% of the disputed tax as ordered above and the

Petitioner not being in arrears of any other amount for any other tax period barring the amount demanded under the impugned Order.

15. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

16. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

17. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

09-02-2026

cda

To

The State Tax Officer (FAC)
Attur Town Circle,
Salem,
Tamil Nadu.

C.SARAVANAN J.

cda

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