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W.P.No.4074 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2026

Coram

The Honourable **Mr.Justice C.Saravanan**

W.P.No.4074 of 2026

and

W.M.P.Nos.4536 & 4537 of 2026

Tvl Innotek Automation

Rep. by its Partner, Mr.V.Aravind

.. Petitioner

Vs.

The Deputy State Tax Officer- II

Podanur Assessment Circle

Coimbatore, Tamil nadu. .

..Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the impugned order in Ref. No. ZD330924167877P dated 25.09.2024 for the Financial Year 2022-23 passed under Section 74 of the CGST/TNGST Act 2017 and uploaded along with the summary of order in DRC-07 from the files of the respondent herein.

For Petitioner : M/s.Aparna Nandakumar

For Respondent : Mr.T.N.C.Kaushik

Additional Government Pleader

Order

Mr.T.N.C.Kaushik learned Additional Government Pleader takes notice on behalf of the Respondent.



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2. This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and the learned counsel for the Respondent.

3. The Petitioner is before this Court against the impugned Order dated 25.09.2024 in Form GST DRC-07 passed for the tax period 2022-23 under Section 74 of the respective GST Enactments, whereby, the proposal in the Show Cause Notice dated 04.06.2024 has been confirmed against the petitioner. The petitioner failed to reply to the Show Cause Notice dated 04.06.2024 and thus suffered the impugned Order.

4. It is submitted by the learned counsel for the Petitioner that the dispute has arisen purely on account of Input Tax Credit availed with regard to the Motor Vehicle stated to have purchased by the Petitioner during the March, 2023.

5. It is the specific case of the learned counsel for the Petitioner that the credit that was availed during the month of April, 2021 had remained unutilized towards discharge of tax liability on the supply made by them, as



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the Petitioner had sufficient balance in the Electronic Credit Ledger.

However, there are no records to substantiate the same.

6. It is the further case of the Petitioner that pursuant to the issuance of a Notice in DRC-01A on 09.11.2023, the Petitioner also reversed the credit that was availed earlier, despite the same, the Respondent has proceeded to issue a Show Cause Notice dated 04.06.2024 in DRC-01 proposing the demand, which has now been confirmed by the impugned Order.

7. It is the specific case of the petitioner, in line with **Circular No.12/2024** dated **10.07.2024**, the Petitioner also filed a Form in GST DRC-03A on 12.02.2025 wherein, it has been stated as under:-

‘I hereby undertake that the payment made vide the Form GST DRC-03 with unique ARN number AD330124032161X has actually been intended to be paid against the demand id ZD330924167877P and has not been used towards any other demand/payment made by me.

I also under to pay back to the Government the amount so adjusted using this form along with applicable interest, if any of the details declared



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above are found to be false subsequently. I will also be liable to penal action under Section 122 (1) (x) of CGST Act.”

8. Therefore, it is submitted by the learned counsel for the Petitioner that there is no justification in either imposing penalty under Section 74 of the respective GST Enactments or interest under Section 50 of the respective GST Enactments.

9. The learned counsel for the Petitioner has also drawn the attention of this Court to a decision of this Court in **Refex Industries Ltd. And others Vs. The Asst. Commissioner of CGST & Central Excise, Maraimalai Nagar Division and others**) reported in **2020 (34) GSTL 588 : 2020 74 GSTR 274 (Mad)** wherein, it has been held as under:-

“11. The Section provides for interest on belated payment of tax and as held by the third Judge, such levy is 'automatic', and is intended to compensate the revenue for the remittance of tax belatedly and beyond the time frames permitted under law. Though in the context of the Income Tax Act, 1961, the question of whether remittance of interest under Sections 234 A, 234B and 234C of the Income Tax Act, 1961 for belated filing of return, belated remittances of advance tax and deferment of advance tax are mandatory came to be considered by the Supreme Court



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in the case of Commissioner Of Income Tax, Mumbai vs Anjum M.H.Ghaswala & Ors (252 ITR 1), and held to be compensatory and hence mandatory. The principle of the said judgment applies on all fours to the present case.

12. The specific question for resolution before me is as to whether in a case such as the present, where credit is due to an assessee, payment by way of adjustment can still be termed 'belated' or 'delayed'. The use of the word 'delayed' connotes a situation of deprivation, where the State has been deprived of the funds representing tax component till such time the Return is filed accompanied by the remittance of tax. The availability of ITC runs counter to this, as it connotes the enrichment of the State, to this extent. Thus, Section 50 which is specifically intended to apply to a state of deprivation cannot apply in a situation where the State is possessed of sufficient funds to the credit of the assessee. In my considered view, the proper application of Section 50 is one where interest is levied on a belated cash payment but not on ITC available all the while with the Department to the credit of the assessee. The latter being available with the Department is, in my view, neither belated nor delayed.

13. The argument that ITC is liable to be reversed if it is found to have been erroneously claimed, and that it may be invalidated in some situations, does not militate with my conclusion as aforesaid. The availment and utilization of ITC are two separate events. Both are subject to the satisfaction of statutory conditions and it is always possible for an Officer to reverse the claim (of availment or utilization) if they are found untenable or not in line with



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the statutory prescription. Credit will be valid till such time it is invalidated by recourse to the mechanisms provided under the Statute and Rules.

14. I am supported in my view by a recently inserted proviso to Section 50(1) reading as below: Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

15. The above proviso, as per which interest shall be levied only on that part of the tax which is paid in cash, has been inserted with effect from 01.08.2019, but clearly seeks to correct an anomaly in the provision as it existed prior to such insertion. It should thus, in my view, be read as clarificatory and operative retrospectively.

16. Learned counsel for the petitioners also draw my attention to the decision of the Telengana High Court in the case of Megha Engineering and Infrastructures Ltd. V. The Commissioner of Central Tax and others (2019-TIOL 893), where the Division Bench interprets Section 50 as canvassed by the Revenue. The amendment brought to Section 50(1), was only at the stage of press release by the Ministry of Finance at the time when the Division Bench passed its order and the Division Bench thus states that 'unfortunately, the recommendations of the GST Council are still on paper. Therefore, we cannot interpret Section 50



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in the light of the proposed amendment'. Today, however, the amendment stands incorporated into the Statute and comes to the aid of the assessee.

17. In the light of the above discussion, these Writ Petitions are allowed and the impugned notices are set aside. No costs.”

10. Since the Petitioner has purportedly reversed the ineligible Input Tax Credit on 20.11.2024, the case is remitted back to the Respondent to pass a fresh order on merits as to whether the Petitioner is also required to pay the interest and penalty in the light of the decision referred to *supra*.

11. The Respondent shall also take note of the amendment to Section 50(3) of the respective GST Enactments made vide the Finance Act 2022 w.e.f. 01.07.2022.

12. The petitioner is directed to file reply along with requisite documents to the Show Cause Notice in DRC-01 dated 04.06.2024 by treating the impugned Order as an addendum within 30 days from the date of receipt of a copy of this order.



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C.Saravanan,J.,

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13. The Respondent shall thereafter proceed to pass fresh orders on merits and in accordance with law after hearing the petitioner as expeditiously as possible within a period of 3 months from the date of receipt of the reply from the Petitioner.

14. This Writ Petition is disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

05.02.2026

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Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer- II
Podanur Assessment Circle
Coimbatore, Tamil nadu.

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