IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-03-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 9954 of 2026
AND
WMP Nos. 10774 & 10775 of 2026

Tvl Patil Constructions and Infrastructure Limited
Represented by its Authorised Signatory,
Mr. Madhu Ramaswami, aged 51 years
S/o. Ramaswami,
4/35, Arni Road,
Santhavasal, Tiruvannamalai - 606905

..Petitioner(s)

Vs

1. The Deputy Commissioner (CT) (Appeals) (Legacy)
No.4, Integrated CT Building,
Bharathiar Salai, Fort Round Road,
Vellore-632 001.

2. The State Tax Officer
Polur Assessment Circle,
5B/2F, Vasantham Nagar,
Polur, Thiruvannamalai – 606803

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records in A.P.No. 8/2025 (TNVAT) dated 26.09.2025 on the file of the 1st Respondent relating to the F.Y. 2016-17, quash the same and direct the 1st Respondent to appropriate the Input Tax Credit lying unutilised as on 30.06.2017 against the balance tax demand.

For Petitioner : Mr.Richard

for Mr.Baskar G

For Respondent(s): Mrs.P.Selvi, GA

ORDER

Mrs.P.Selvi, learned Government Advocate takes notice for the Respondents.

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 Respondents.

3. This is a second round of litigation before this court. Earlier, the Petitioner had suffered an adverse order dated 25.03.2024 for the Assessment Year 2016-2017. Aggrieved by the same, the Petitioner has filed WP.No.20035 of 2025.

4. By an order dated 05.06.2025, this court disposed the above Writ Petition by giving liberty to the Petitioner to file a Statutory Appeal before the Appellate Authority under Section 51 subject to Petitioner depositing 20% of the disputed tax confirmed by the aforesaid assessment order dated 25.03.2024. Pursuant to the aforesaid order dated 05.06.2025 in WP.No.20035 of 2025, Petitioner appears to have pre-deposited the amount as ordered.

5. It is in this back ground, the impugned order has been passed by the 1st Respondent as an Appellate Authority. Against the impugned order, the

Petitioner has an appellate remedy before the Sales Tax/VAT Appellate Tribunal under Section 58 of the TNVAT Act, 2006.

6. The Petitioner is required to file an Appeal within a period of 60 days from the date of receipt of a copy of the impugned order of the Appellate Commissioner namely the 1st Respondent herein. The limitation for filing the said Appeal has already expired on 25.11.2025. A further avenue to file an Appeal with a condone delay application has also expired on 24.01.2026.

7. The present Writ Petition has been filed only on 05.03.2026 after the extended period of limitation to file Appeal has expired. As such, the Petitioner was required to pre-deposit the entire amount confirmed by the Assessment Order dated 25.03.2024 as the condition precedent for inviting an order on merit in terms of Section 58 of TNVAT, Act 2006 from the Appellate Tribunal.

8. The case of the Petitioner is that the Petitioner is predominantly having business outside Tamil Nadu and that during the period in dispute, the Petitioner had excess of Input Tax Credit which has not been utilised till date.

9. It is submitted that apart from the Input Tax Credit, Petitioner also had credit of tax deducted at source and paid directly to the Government which were adjusted towards the tax liability and therefore, the Petitioner has not only the

balance of Input Tax Credit which is lying unutilized but also balance of VAT TDS which is also lying unutilized after adjustment of the tax liability towards tax liability. An additional affidavit to that effect has been filed by the Petitioner wherein, in paragraph No.2 it has been stated as follows:-

> *2. I state that for the FY 2016-17 the Petitioner filed their monthly returns under TNVAT Act 2006, in Form I and annual return along with Audit Report in Form WW. Subsequently the Respondents assessed the returns filed and concluded the assessment vide order dated 25.03.2024 which was partially modified vide the impugned order dated 26.09.2025, the details are as tabulated below:*

Description	Amount
Turnover	31,92,198
Tax	1,87,419
ITC Claimed	1,06,49,757
Tax Paid using ITC	42,447
Balance ITC available	1,05,04,785

<u>Tax Paid and ITC details declared in annual returns in Form WW by petitioner</u>

Description	Amount
Turnover	57,71,51,605
Turnover after 30% rebate	40,40,06,124
Tax @ 5%	2,02,00,306
ITC Claimed	1,28,07,502
VAT TDS Credits Available	1,52,03,684
Tax Paid using ITC	1,28,07,502
Tax Paid using VAT TDS credit	73,92,804
Balance ITC available	NIL
Balance VAT TDS credit available	78,10,880

10. The correctness of the figures in the above affidavit cannot be verified. It is noticed that the Petitioner has already deposited Rs.55 lakhs pursuant to the order dated 05.06.2025 of this Court. *Prima facie* indications are that the Petitioner has VAT TDS of Rs.78,10,880/- which has not been utilized after adjusting Rs.73,92,804/-

11. Considering the fact that the Petitioner may have a case on merits to be argued before the appellate Tribunal, I am inclined to give liberty tot he Petitioner to challenge the impugned order before the appellate Tribunal within 30 days from the date of receipt of a copy of this order

12. Petitioner shall deposit another tranche of Rs.55 lakhs as pre-deposit as a condition precedent for the Tribunal to entertain the appeal and dispose the Appeal on merits considering the fact that the Petitioner may or may not have VAT TDS remaining un-utilized to the above stated extent.

13. It is made clear that in case the amount specified in the affidavit are incorrect, it is for the Tribunal may dispense the Petitioner from depositing the balance amount as a condition for entertaining the appeal before disposing the case on merits.

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

23-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

To

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C.SARAVANAN J.

GV

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