IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 11566 of 2026
and
WMP Nos.12612 & 12614 of 2026

R Ramesh
S/o. Ranganathan,
No.11/3 First Floor,
Ranganathan Road, Villupuram-605 602.

..Petitioner(s)

Vs

The State Tax Officer Inspection-I
Cuddalore (Intelligence),
No.1, Vallalar Nagar, Manjakuppam,
Cuddalore -607 001.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, praying to issuance of Writ of Certiorarified Mandamus,

a) to call for the records, relating to the Impugned order dated 01.04.2025 bearing Reference Number 33ABPPR3315K2ZE/2022-23 of the Respondent and quash the same as being contrary to law defective on the following among other grounds.

b) and to direct the Respondent to conduct a fresh proceeding according to the law.

For Petitioner(s):	Mr. G. Gautham Ram Vittal
For Respondent(s):	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 Special Government Pleader for the Respondent.

3. The Petitioner is before this Court long after the Impugned Order was passed on 01.04.2025. By the said Impugned Order, a part of the proposal in the Show Cause Notice dated 03.11.2023 issued under Form GST DRC-01 has been confirmed on the following three defects, as extracted below :-

*" **Defect No.1***

Input Tax Credit Mismatch (GSTR 3B Vs 2B) / 2022-2023

PARTICULARS	***IGST ITC***	***CGST ITC***	***SGST ITC***
ITC as per GSTR3B	*4,30,062.03*	*24,00,397.06*	*24,00,397.06*
ITC as per GSTR2B	*4,30,062.03*	*17,04,948.65*	*17,04,948.65*
ITC MISMATCH (GSTR3B – GSTR2B)	***0***	***6,95,448.41***	***6,95,448.41***

Therefore the tax payer has directed to pay the such input tax credit IGST of Rs.0 + CGST of Rs.695448 + SGST of Rs.695448 availed in contravention of section 16 and rule 36 of the act of the act.

Hence, you are requested to pay the above tax along with interest @ 18% u/s 50(1) and Penalty u/s 74 of the TNGST Act, 2017.

Taxpayer's Reply

Defect 1: Input Tax Credit Mismatch (GSTR 3B vs. GSTR 2B) Amount: Rs.6,95,448.41 Response: The ITC mismatch of Rs.6,95,448.41 has been addressed. The discrepancy amount has been reversed in October 2023, along with the applicable interest. Enclosed are the revised GSTR 3B return showing the correction, proof of GSTR 3B Copy in table 5.1

Discussion, findings & Conclusion

i. Taxpayers has reversed the said ITC on 20.01.2024 in GSTR 3B filed for Oct 2023, inconsequence to the comment of inspection dated 21.08.2023 and this defect has been pointed out in DRC 01 dated 03.11.2023. However interest and penalty has not been paid therein.

ii. Therefore, interest and penalty under section 74 shall be paid as below:

CGST	***SGST***	***Availed date***	***Paid date***	***Number of days delay***	***CGST interest***	***SGST interest***	***CGST penalty***	***SGST penalty***
6,95,448	*6,95,448*	*20-09-2022*	*20-01-2024*	*487*	*167022*	*167022*	*6,95,448*	*6,95,448*

Defect No.2

Wrong availment of Input tax credit in contravention to section 16 and 17 of the act/2022-2023

GSTN of Supplier	***Trade/Legal name of the Supplier***	***No. of Invoices***	***Taxable Value (Rs.)***	***Tax Amount***			
				Integrated Tax (Rs.)	***Central Tax (Rs.)***	***State/ UT tax (Rs.)***	***Cess (Rs.)***

33AABCR6747B1ZN	*RELIANCE GENERAL INSURANCE COMPANY LIMTIED*	*1*	*3501*	*0*	*315*	*315*	*0*
33AAYFM4567A1Z3	*MANTRA GOLD COATINGS*	*2*	*33304*	*0*	*1998*	*1998*	*0*
33AELFS0735H1Z2	*SRI SHAKTHIVEL MOTORS AND TOOLS*	*1*	*36622*	*0*	*2676*	*2676*	*0*
33AJVPM5266G1ZS	*SRI KANNAN BATTERY HOUSE*	*3*	*15469*	*0*	*2166*	*2166*	*0*
33AMQPB9463J1ZO	*RASNA TYRES ALLOYS*	*1*	*2656*	*0*	*372*	*372*	*0*
				Total	*7527*	*7527*	

Whereas, it is pertinent to note that such input tax credit is restricted under section 16(1), as those have not been used in the course or furtherance of your business and blocked credit under section 17 as well.

Therefore, tax shall be paid to amount of wrongly availed input tax credit along with applicable interest under section 50 and penalty under section 74 of the act as detailed below:

<u>Taxpayer's Reply</u>

Defect 2: Wrong Availment of Input Tax Credit in Contravention to Section 16 and 17 of the Act

Items : Goods Insurance, statue gold coating, tools kit, office inverter battery, and office two-wheeler tyres.

Response : The mentioned items were utilized for business purposes. The ITC claimed on these items is in compliance with the regulations as they are related to our business operations. However, if any discrepancies are found, please inform us so that necessary adjustments can be made.

Discussion, findings & Conclusion

i. Taxpayer has not submitted the invoice details for the above inward supplies, thereby failed to prove the eligibility of the said ITC.

ii. Hence taxpayer is not acceptable hence demand is confirmed as below:

	Liabilities	*Tax due IGST (Rs.)*	*Tax due CGST (Rs.)*	*Tax due SGST (Rs.)*
1	*Tax payable on wrong availment of ITC contravention to the section 16(1) & 17 of the act*	*0*	*7527*	*7527*
2	*Penalty proposed at 100% u/s 74(1)*	*0*	*7527*	*7527*
3	*Interest payable u/s 50*	*0*	*7527*	*7527*

The Petitioner has discharged only a part tax liability and part of the interest liability, but not the liability.

4. It is noticed that the limitation for filing an appeal under Section 107 of the respective GST enactments, 2017, against the impugned order has already been expired. The present Writ Petition has been filed only on 18.03.2026.

5. As a matter of fact, Section 74 of the respective GST Enactments, contemplates an inbuilt amensty insofar as the penalty is concerned:-

Section 74(5)	the Petitioner can discharge the tax liability by paying tax, interest thereon and 15% of penalty on his own assess of payment.

Section 74(8)	the aforesaid penalty increases to 25% provided such amount penalty is paid within 30 days from the date of notice.
Section 74(11)	Even after the Assessment Order was passed, penalty can be restricted to 50% if the amount provided such penalty along with the interest and taxes would be paid within a period of thirty (30) days from the date of communication of the order.

6. The Petitioner has not opted for any of the above three inbuilt amensty under Section 74 of the respective GST Enactments. As such there is no merits in this case to challenging the Impugned Order.

7. At this stage, the learned counsel for the Petitioner submits that the Petitioner is willing to deposit 25% of the disputed tax amount as a condition for *denovo* adjudication.

8. The learned counsel for the Petitioner has also made the following endorsement to that effect in the Court bundle which has been extracted hereunder:-

> *"The Petitioner is willing to deposit 25% of penalty & interest amount before the Commissioner's Appeal GST as per this Hon'ble Court direction."*

9. However, considering the above the Petitioner is given liberty to challenge the Impugned Order before the Appellate Authority by way of filing an appeal, within a period of thirty (30) from the date of receipt of a copy of this

order, subject to the Petitioner pre-depositing 25% of the disputed tax amount.

10. In case, the Petitioner complies with the above stipulations in time, the Appellate Authority shall entertain the appeal and dispose of the same on merits, and in accordance with law.

11. Any amount if recovered by the department towards the aforesaid liability may be adjusted towards the pre-deposit. Therefore, it is for the Petitioner to convince the Appellate Authority, such amount has been recovered from the Petitioner.

12. In case the Petitioner complies with the above stipulations, the Appellate Authority shall pass appropriate orders on merits 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, if in force, shall also stand automatically vacated/lifted.

13. It is made clear that bank attachment shall be lifted subject to the Petitioner depositing 25% 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 dated 01.04.2025.

14. 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.

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

16. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

26-03-2026

Neutral Citation: Yes/No
klt

To

The State Tax Officer Inspection-I
Cuddalore (Intelligence),
No.1, Vallalar Nagar, Manjakuppam,
Cuddalore -607 001.

C.SARAVANAN, J.

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