IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.13318 of 2024
and
W.M.P.Nos.14471 and 14472 of 2024

M/s.ESSKKAAY Construction,
Rep by its Proprietor, Mr.Sukumar Karthick ... Petitioner

Vs.

1. The Office of Deputy State Tax Officer-II,
   Mannady Assessment Circle, Chennai-600 003.

2. Office of the Assistant Commissioner (ST)
   Mannady Assessment Circle,
   Integrated Commercial Taxes Building,
   No.32, Elephant Gate Bridge Road,
   Chennai-3. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order reference No.ZD330224101022G dated17.02.2024 for the FY April 2023-June 2023, which came to be passed by the office of the 1st respondent as per the provisions U/S 74 of the GST Act, directing "the petitioner to pay a sum of the entire ITC of CGST & CGST of Rs.5,94,000/- & SGST of Rs.5,94,000/-. The same has to be treated as " Not eligible for claiming ITC" and " the same has to be reversed by the beneficiary" and quash the same as illegal, arbitrary and devoid of merits.

For Petitioner : Mr.Ramesh Kumar Chopra

For Respondents : Mrs.K.Vasantha Mala
Government Advocate (Puducherry)

ORDER

Mrs.Vasantha Mala, learned Government Advocate (Puducherry) 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. In this Writ Petition, the Petitioner has challenged the impugned Order dated **17.02.2024**, which was preceded by a Show Cause Notice in GST DRC-01 dated 0**5.01.2024** has been confirmed after considering the petitioner's reply.

4. A perusal of the impugned order indicates that there are no procedural irregularity or perversity in the impugned order, warranting interference in the Article 226 of the Constitution of India. The petitioner has dragged on the proceedings by way of filing the present petition without securing any interim order from this Court.

5. Considering the same, liberty is given to the petitioner to file an appeal before the Appellate Authority under Section 107 of the respective GST Enactment Act within 30 days from the date of receipt of a copy of this order. Along with such appeal, the petitioner shall pay 50% of the disputed tax.

6. Under similar circumstances, Orders have been quashed and cases have been remitted back to the first Respondent 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.

7. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the first Respondent to pass a fresh order on merits subject to the Petitioner depositing 50% of the disputed tax in cash or from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

8. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 05.01.2024 together with requisite

documents to substantiate the case by treating the impugned Order dated 17.02.2024 as an addendum to the Show Cause Notice dated 05.01.2024.

9. In case the Petitioner complies with the above stipulations, the first 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 if any, shall also stand automatically vacated.

10. It is made clear that bank attachment shall be lifted subject to the Petitioner depositing 50% 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.

11. In case the Petitioner fails to comply with any of the stipulations, the Respondents are 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.

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

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

04.03.2026

Vv

Neutral Citation : Yes / No

To:

1. The Office of Deputy State Tax Officer-II,
   Mannady Assessment Circle, Chennai-600 003.

2. Office of the Assistant Commissioner (ST)
   Mannady Assessment Circle,
   Integrated Commercial Taxes Building,
   No.32, Elephant Gate Bridge Road,
   Chennai-3.

C.SARAVANAN, J.

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