



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-06-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

**WP No. 19835 of 2026
and WMP.No.21166 of 2026**

Jayashree Enterprises (33ASFPK8957K1Z7)
Rep. by its Proprietor Kumaravel Kanagaraju,
D.No.107, Radha Complex,
Srinivasa Street, Udumalpet-642126.

..Petitioner

Vs

Assistant Commissioner (ST)
Udumalpet South Assessment Circle,
Tiruppur III, Chithirakudam, Kalpana Road,
Udumalpet-642 126.

..Respondent

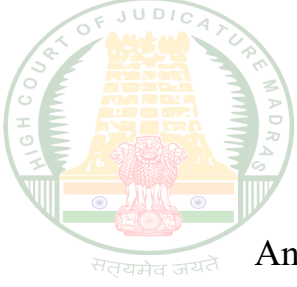
Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the impugned order on the file of Respondent vide GSTIN : 33ASFPK8957K1Z7/2020-21 dated 12.02.2025 and quash the same which was uploaded in “Additional Notices and Orders” in the GST Portal.

For Petitioner:

Mr. J. Madhusuthanan

For Respondent:

Ms. Amirta Poonkodi Dinakaran
Government Counsel (Tax)



ORDER

An order dated 12.02.2025 is assailed primarily insofar as imposition of interest is concerned.

2. Learned counsel for the petitioner contends that there was a discrepancy between the Input Tax Credit (ITC) reflected in the GSTR – 3B return in comparison to the GSTR – 2A auto-populated return. According to learned counsel, any liability imposed on account of such discrepancy cannot be characterised as wrongful availment and utilisation of ITC. Consequently, he contends that the petitioner is entitled to the benefit of circular bearing F.No.CBEC-20/01/08/2019-GST, dated 18.09.2020. Relying on the proviso to sub-section (1) of Section 50 of applicable GST enactments, learned counsel submits that interest is payable only on the portion of the tax paid by debiting the electronic cash ledger and not by debiting the electronic credit ledger. In the case at hand, he contends that the tax liability was discharged by debiting the electronic credit ledger of the petitioner. He also relies on the judgment of this Court in *M/s. Maansarovar Motors Private Limited v. the Assistant Commissioner, Poonamallee Division and two others*, order dated 29.09.2020 in *W.P.No.28437 of 2020* and related cases.

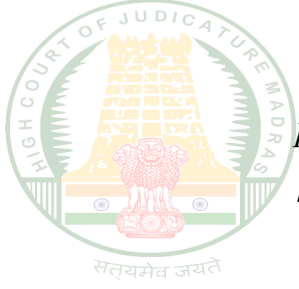


3. In response to these contentions, Ms. Amirta Poonkodi Dinakaran relies on sub-section (3) of Section 50 of applicable GST enactments read with Rule 88B(3). She contends that the Parliament has specifically provided for cases where ITC was wrongly availed and utilised. In such cases, she submits that sub-rule (3) of Rule 88B provides for interest to be levied from the date of wrongful utilisation till the date of reversal.

4. Central to the adjudication of the issue canvassed by the petitioner is the interpretation of Section 50. Section 50 reads as under:

“50. Interest on delayed payment of tax.— (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

[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 [or section 74A] in respect of the said



period, shall be payable on that portion of the tax that is paid by debiting the electronic cash ledger.]

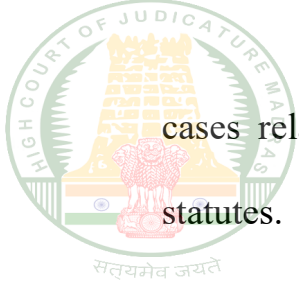
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(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

[(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent, as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.] ”

Sub-section (1) of Section 50 deals generically with belated payment of tax. It prescribes the ceiling of 18% as interest on belated payment. Sub-section (3) deals specifically with wrongful availment and utilisation of ITC. A higher ceiling of 24% is fixed in respect of interest liability in respect thereof, thereby indicating that sub-section (1) is not applicable.

5. Learned counsel for the petitioner contended that liability arising out of the discrepancy in ITC available as per the GSTR – 3B return and GSTR – 2A should not be construed as wrongful availment and utilisation of ITC. He contends that the expression “wrongful availment and utilisation” should be confined to cases such as availment of ITC without genuine supply of inputs or



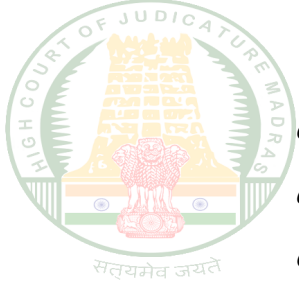
cases relating to impermissible ITC under Section 17(5) of applicable GST statutes.

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6. The GST statutes define ITC as the credit of input tax in Section 2(63) of applicable GST enactments. Wrongful availment and utilisation is not defined in the statutes. As a result of the discrepancy between the above mentioned returns, a conclusion has been reached by the assessing officer that the petitioner had availed of ITC to which the petitioner is not entitled. In the absence of any statutory definition curtailing the scope of the expression “wrongful availment and utilisation of ITC” to fraudulent or bad faith availment or utilisation, any availment and utilisation thereof while not eligible or entitled thereto would qualify as wrongful availment and utilisation. This conclusion is fortified by the fact that bad faith availment and utilisation is dealt with separately under Section 74 *inter alia* by prescribing a higher penalty. As a corollary, the specific provision in sub-section (3) of Section 50 is attracted.

7. This provision is required to be read with Rule 88B(3). Said sub-rule reads as under:

“(3) In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with sub-section (3) of section 50, the interest shall be



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calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, at such rate as may be notified under said sub-section (3) of section 50.

Explanation : For the purposes of this sub-rule,-

(1) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

(2) the date of utilisation of such input tax credit shall be taken to be,-

(a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

(b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.”



8. In the impugned order, the assessing officer has considered this aspect and recorded as under:

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“The taxpayer’s reply is verified and found correct. The tax due is set off against the available ITC in the credit ledger. However the CGST credit had already been utilised by the taxpayer against the other tax dues before the actual date on which the credit has been utilised to set off the above said tax due. Hence the CGST portion of the tax due attracts interest in accordance with section 50 of TNGST Act, 2017. Also tax due has been paid only beyond 30 days from the date of intimation of the defect in DRC 01. Hence penalty is also levied for SGST and CGST.”

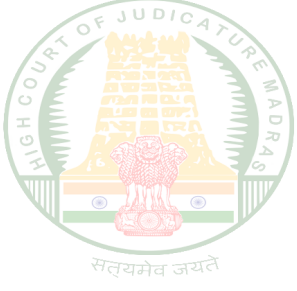
Adverting specifically to sub-section (3) of Section 50, the assessing officer has computed the interest liability in terms thereof. In a case relating to wrongful availment and utilisation of ITC, it follows that such utilisation is by debiting the electronic credit ledger and not the electronic cash ledger. Hence, the reliance on sub-section (3) of Section 50 is entirely in order. I find no infirmity in the decision warranting interference under Article 226 of the Constitution of India. Therefore, this writ petition is dismissed without any order as to costs. Consequently, connected miscellaneous petition is closed.

17-06-2026

Index : Yes/No

Neutral Citation : Yes/No

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SENTHILKUMAR RAMAMOORTHY, J.

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