IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.17520 of 2022
and
W.M.P.Nos.16806 and 16807 of 2022

M/s.Seagul Infras,
Represented by its Proprietor
C.Manivannan … Petitioner

Vs.

The Assistant Commissioner of GST &
Central Excise,
Perungudi Division,
8th Floor, 692,
M.H.U. Complex,
Nandanam,
Chennai – 600 035. … Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records in Order-in-Original No.04/2022-AC dated 07.02.2022 on the file of the Respondent and quash the same as illegal, arbitrary and against the principles of natural justice and direct the respondent to pass the order in accordance with law.

For Petitioner : Dr.A.Thiagarajan
Senior Counsel

For Respondent : Mr.Rajendiran Raghavan
Senior Standing Counsel

ORDER

The Petitioner is before this Court against the impugned Order-in-Original No.04/2022-AC dated 07.02.2022 whereby the proposal in Show Cause Notice No.05/2019 dated 24.12.2019 has been confirmed.

2. By the impugned order, the Petitioner has been asked to pay a sum of Rs.92,79,799/- being the Input Tax Credit which was transitioned by the Petitioner under the provisions of the respective GST Enactments.

3. By the impugned order, the Respondent has concluded as follows:-

> "In spite of several communications as mentioned above, the taxpayer failed to reply/produce documents to prove that the goods on which input tax credit under Tran-1 have been availed were actually lying in stock. This amply proves the intention of the taxpayer to wrongly avail the input tax credit under Tran-1 by suppressing the fact of actual stock of the goods as on 30.06.2017 to the department. Therefore, it appears that the taxpayer have contravened the provisions of Section 140(3) of the CGST Act, 2017 and hence Section 74(1) is invokable in the instant case. Thus, they rendered

themselves liable for penalty as provided under Section 74 of the Act."

4. The Petitioner appears to be an importer of printing machineries and had imported such printing machineries between 12.12.2016 and 13.06.2017, in respect of which the Petitioner wanted to transition the Input Tax Credit on the additional duty of customs under the provisions of the respective GST Enactments.

5. The Respondent has confirmed the demand by referring to Section 140(3) of the respective GST Enactments and Rule 117 of the respective GST Rules which read as under:-

Section 140(3) of the respective GST Act	**Rule 117(2)(b) of the respective GST Rules**
140. Transitional arrangements for input tax credit: (1) ….. (2) ….. (3) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of Notification No.26/2012-Service Tax,	**117. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day:** (1) ….. (2) Every declaration under sub-rule (1) shall - (a) …… (b) in the case of a claim under sub-section (3) or clause (b) of sub-section (4) or sub-section (6) or sub-section (8) of section 140, specify separately the details of stock held on the appointed

dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished [goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to] the following conditions, namely:- i. such inputs or goods are used or intended to be used for making taxable supplies under this Act; ii. the said registered person is eligible for input tax credit on such inputs under this Act; iii. the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs; iv. such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and v. the supplier of services is not eligible for any abatement under this Act. **Provided that** where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.	day; (c) …...

6. The case of the Petitioner is that the Petitioner had given all particulars in the reply dated 24.12.2019. However, without considering the same, the Respondent has proceeded to pass the impugned order to confirm the demand.

7. A reading of the impugned order indicates that the Petitioner was called upon to furnish the relevant details vide Range II O.C.No.86/2019 dated 03.08.2019, O.C.No.105/2019 dated 18.03.2019 and O.C.No.230/2019 dated 05.07.2019, emails dated 01.01.2019, 12.02.2019, 08.03.2019. The Petitioner has not given any details to prove the closing balance held in stock / unsold stock as on 30.06.2017. The Petitioner had also not produced imported and sales machineries part number, and had not correlated with the imported goods and sales details of the subject machineries for the Pre GST period / Post GST period.

8. Having considered the submissions made by the learned Senior Counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent, this Court is inclined to remit the case back to the Respondent to pass a fresh *de novo* order subject to the Petitioner depositing 10% 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.

9. Within such time, the Petitioner shall also file a proper reply to the Show Cause Notice in GST DRC-01 dated 24.12.2019 together with requisite documents to substantiate the case by treating the impugned order dated 07.02.2022 as an addendum to the Show Cause Notice dated 24.12.2019.

10. The Petitioner shall file the above reply together with the details of opening stock as on 01.07.2017 which were reflected in the returns filed for the succeeding months in GSTR-1, GSTR-2A and GSTR-3B till the liquidation of the opening stock held on 01.07.2017, to show that the stock that was lying as on 30.06.2017 was subsequently sold after 01.07.2017 and reflected in the above returns on payment of GST under the respective GST Enactments.

11. The Petitioner shall also supplement the above reply with a Certificate from a Chartered Accountant giving all the particulars from the Book maintained by the Petitioner.

12. In case the Petitioner complies with the above stipulations, the 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 shall also stand automatically vacated.

13. It is made clear that bank attachment shall be lifted subject to the deposit of 10% 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.

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. Connected Writ Miscellaneous Petitions are closed.

25.03.2026

Neutral Citation : Yes / No

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To:

The Assistant Commissioner of GST &
Central Excise,
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M.H.U. Complex,
Nandanam,
Chennai – 600 035.

C.SARAVANAN, J.

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