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W.P.No.28755 of 2025

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 09.04.2026

CORAM :

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.No.28755 of 2025

and

W.M.P.No.32208 of 2025

CHOSEN,

Represented by its Director

M.M.Raghavender

... Petitioner

Vs.

1.Commercial Tax Officer,  
Office of Commercial Tax Officer,  
Egmore Zone IV,  
Chennai Central,  
Tamil Nadu.

2.Deputy Commissioner (CT),  
Appeal Appellate Authority,  
PAPJM Buildings,  
No.1, Greaves Road,  
Chennai – 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in Order GSTIN No. 33AAOFC7902P1ZZ/2021-22 dated 28.02.2023 passed by the 1<sup>st</sup> Respondent and the consequential Order of Rejection of Appeal in Form GST-APL-02



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dated 18.10.2024 passed by the 2<sup>nd</sup> Respondent and quash the same as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondents : Mr.V.Prashanth Kiran  
Government Advocate

### **ORDER**

The Petitioner is before this Court against the impugned Order dated 28.02.2023 passed by the 1<sup>st</sup> Respondent and the Order dated 18.10.2024 passed by the 2<sup>nd</sup> Respondent wherein the Petitioner's appeal against the aforesaid Order came to be rejected.

2. The Petitioner's appeal was filed on 19.01.2024 long after the expiry of the limitation period prescribed under Section 107 of the respective GST Enactments. As such, this Writ Petition is liable to be dismissed in the light of the well-settled principles of law.

3. Learned counsel for the Petitioner would urge this Court to examine the case based on the records that are available before this Court.



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4. Learned counsel for the Petitioner would submit that although the Petitioner could have availed Input Tax Credit to the extent of Rs.82,71,131/- as per the Input Tax Credit in Form GSTR-2A on the IGST paid by the supplier, the Petitioner had by mistake restricted the same to Rs.62,50,172/- leaving an excess of Rs.20,20,959/-.

5. It is submitted that there was an inadvertent mistake and the credit which was not availed was partly availed in excess under SGST and CGST for a sum of Rs.12,32,719/- and Rs.28,27,055/- as detailed below in the intimation in Form GST DRC-01A dated 27.08.2022.

| Description                                           | SGST    | CGST    | IGST    |
|-------------------------------------------------------|---------|---------|---------|
| Total amount of ITC adjusted through GSTR3B (Tbl:6A)* | 6577948 | 8172284 | 6250172 |
| Total amount of ITC as per GSTR-2A (Tbl:8A)           | 5345229 | 5345229 | 8271131 |
| Difference (GSTR3B-GSTR2A)                            | 1232719 | 2827055 | 2020959 |

6. Learned counsel for the Petitioner submits that *post facto* the Petitioner has also squared up the tax liability by paying a total sum of Rs.1,07,64,762/- on various dates as detailed below:-



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| Cash Balance Utilized |                     |                    |          |              |                    |
|-----------------------|---------------------|--------------------|----------|--------------|--------------------|
| Month                 | Date of Utilization | Tax                | Interest | Fee          | Total              |
| June 2021             | 22/07/2021          | 35,96,835          | -        | 450          | 35,97,285          |
| July 2021             | 24/08/2021          | 10,89,322          | -        | -            | 10,89,322          |
| Aug 2021              | 21/09/2021          | 22,89,254          | -        | 200          | 22,89,454          |
| Sept 2021             | 23/10/2021          | -                  | -        | 50           | 50                 |
| Oct 2021              | 19/11/2021          | 7,17,280           | -        | 150          | 7,17,430           |
| Dec 2021              | 20/01/2022          | 1,13,593           | -        | 400          | 1,13,993           |
| Feb 2022              | 19/03/2022          | 16,03,111          | -        | 1,350        | 16,04,461          |
| Mar 2022              | 02/05/2022          | 3,61,903           | -        | -            | 3,61,903           |
| RCM                   | 02/05/2022          | 9,90,864           | -        | -            | 9,90,864           |
|                       |                     | <b>1,07,62,162</b> | -        | <b>2,600</b> | <b>1,07,64,762</b> |

7. In these circumstances, a reference is made to the grounds of appeal before the 2<sup>nd</sup> Respondent which reads as under:-

“The demand of Rs.41,84,305/- (Reference No.ZD330223138435Q, dated 8/02/2023) appears to be unfounded, as it seems the Assessing Officer inadvertently omitted the consideration of tax payments made during the months of October 2021 (Rs.7,17,280/-), December 2021 (Rs.1,13,593/-) and February 2022 (Rs.16,03,111/-), totalling Rs.24,33,984/-. Additionally, an Input Tax Credit (ITC) on the import of goods amounting to Rs.20,50,711/- has not been accounted for.”



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8. That apart, it is submitted that at the time of filing of appeal before the 2<sup>nd</sup> Respondent on 19.01.2024, the Petitioner has also deposited 10% of the disputed tax amounting to Rs.4,05,978/-. In all, it is submitted that the Petitioner has paid a sum of Rs.28,39,962/- (Rs.24,33,984/- + Rs.4,05,978/-).

9. Learned Government Advocate for the Respondents submits that the Petitioner has not been able to prove that the lesser Input Tax Credit that was availed on IGST for a sum of Rs.62,50,172/- as against Rs.82,71,131/- has not been availed of and utilized during the succeeding period.

10. It is submitted that the so called payments made as was stated by the learned counsel for the Petitioner is not matching with the amount and the burden of proof was on the Petitioner to discharge the tax liability. Since the Petitioner failed to respond to Form GST DRC-01A intimation dated 27.08.2022 and the Show Cause Notice in GST DRC-01 dated 22.12.2022, this Writ Petition is liable to be dismissed as there are several disputed questions of fact.



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11. By way of rejoinder, the learned counsel for the Petitioner has drawn attention to Para-17(4) in the grounds in Paragraph No.25 of the Counter Affidavit. It reads as follows:-

“Para-17(4):

It is submitted that the First Respondent passed orders by raising the demands as per Mismatch/excess availment of Input Tax Credit in return GSTR-3B filed and GSTR-2A apart from the payments were made by the Petitioner.”

12. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Government Advocate for the Respondents.

13. There is no dispute that the Petitioner has discharged 10% of the tax liability at the time of filing of appeal on 19.01.2024 before the 2<sup>nd</sup> Respondent. As far as the other amounts are concerned, there is no determination by the Respondents as to whether excess or lesser amount was availed under the respective heads and the amounts were paid for by the Petitioner.



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14. Since GST DRC-01A intimation dated 27.08.2022 itself confirms that the Petitioner had restricted the Input Tax Credit on IGST by a sum of Rs.20,20,959/- and that the Petitioner had availed excess of Rs.12,32,719/- and Rs.28,27,055/- towards SGST and CGST, the same can be squared up if indeed the Petitioner had not availed Input Tax Credit on IGST subsequently.

15. That apart, the Petitioner will have to show that the supplier had indeed paid tax for a sum of Rs.20,20,959/- and that the Petitioner had indeed received the inputs which is reflected in GSTR-2A.

16. Since the matter would require a detailed consideration and further determination by the Respondents, therefore, to balance the interest of the Petitioner and the Revenue, this Court is inclined to remit the case back to the 2<sup>nd</sup> Respondent to pass fresh order subject to the Petitioner depositing another sum of Rs.15,00,000/- within a period of six (6) weeks from the date of receipt of a copy of this order.

17. In case the Petitioner complies with the above stipulation, the 2<sup>nd</sup> Respondent/Appellate Authority shall entertain the appeal and dispose of



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the same on merits on its turn after hearing the Petitioner without further reference to limitation.

18. In case the Petitioner fails to comply with the above stipulation, the Authorities under the Act are at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

19. Needless to state, before passing any order the Petitioner shall be heard.

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

**09.04.2026**

Neutral Citation : Yes / No

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- To:**
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Office of Commercial Tax Officer,  
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Tamil Nadu.
  2. Deputy Commissioner (CT),  
Appeal Appellate Authority,  
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**C.SARAVANAN, J.**

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