IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WA Nos. 592 and 420 of 2026

Norton Granites and Properties (P) Ltd.,
10/18 Manikeswari Road
Kilpauk
Chennai-600010
Tamilnadu

..Appellant in both W.As

Vs

The Assistant Commissioner ST
Kilpauk Assessment Circle,
Chennai 3.

..Respondent in both W.As

Appeals filed under Clause 15 of the Letters Patent to allow the Writ Appeals and set aside orders dated 10.06.2024 made in WP Nos.12954 and 13400 of 2024 and thus render justice.

In both W.As.

For Appellant(s): MR.P. Mohan Kumar

For Respondent(s): Mr.TNC.Kaushik
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

This common order is passed even at the stage of admission of the Writ Appeals, by consent expressed by both Mr.Mohan Kumar, learned counsel for the appellant and Mr.TNC.Kaushik, learned Additional Government Pleader who accepts notice for the respondent/Department.

2. Since counter affidavit had not been filed before the Writ Court, we had sought a counter from the respondent at the stage of admission of W.A.No.420 of 2026 and a counter has been filed. Hence, pleadings are complete before us.

3. The issue that arises for decision is as to the entitlement of the appellant, a land owner, to seek refund of tax paid by the builder, one KG Foundations Pvt. Ltd. (in short 'Builder'), in terms of the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 (in short 'Act').

4. The facts in brief are that the appellant had entered into an agreement with the builder for development of a property at R.S.No.377/1, Mevalurkuppam, B.Pazhandhur Village, Poonamallee Taluk, Tiruvallur District (in short 'property'/'property in question'). The petitioner is registered for service tax under the category '*Granite Supply'.* The builder is registered to

service tax under the category *'construction services'* and has admittedly remitted the tax due in respect of that activity.

5. According to the appellant certain tax liabilities have been borne by it in terms of the agreement with the builder and hence the Appellant proceeded to submit two refund applications on 16.11.2022 for the periods April, 2019 to March 2020 (W.A.No.420 of 2026) and May, 2020 to January, 2021 (W.A.No.592 of 2026) seeking refund of the tax paid by the builder, allegedly borne by the Appellant in terms of the contract with the builder.

6. One refund application was rejected and the second was returned as defective, the basis for both being that the appellant did not satisfy the ingredients of Section 54 of the Act. It is as against the aforesaid two orders, that Writ Petitions were filed that came to be dismissed vide separate orders, both dated 10.06.2024. The learned Judge has proceeded on the basis that the appellant is not entitled to seek refund of the tax as it has not borne the tax liability.

7. Section 54 (1) of the Act reads, '*Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed.'*

8. The opening phrase '*any person*', would have to be read along with the phrase *'paid by him'*. Hence, the person claiming refund would have to be the person who has borne the liability of the taxes. In this view of the matter, we see no infirmity in either the return of the refund applications or rejection of the same and confirm the orders of the Writ Court.

9. The Appellant relies upon a decision of this Court in *Platinum Holdings Pvt. Ltd. V. Additional Commissioner of GST & Central Excise (Appeals-II)* (58 GSTL 3), which we do not believe is of any assistance to it. We reiterate the contents of paragraph 12 of that decision to the effect that refund may be granted only upon satisfaction of the statutory entitlement of the assessee, and on the satisfaction of the Assessing Authority that there was no double claim as against the same amount.

10. In the present case, Mr.Kaushik has produced the records that indicate that the builder had borne the tax liability seeking a set-off of the Input Tax Credit. That apart, there is also a finding therein that that assessee, Platinum Holdings Pvt. Ltd., had remitted the tax on an erroneous interpretation of the law, which is not the factual position in the present matter.

11. For the above reasons, we find no merit in these Writ Appeals. The proper remedy for the appellant lies before the Civil Courts and the Appellant seeks liberty in this regard. We grant liberty to the Appellant to institute a suit

strictly in accordance with law, such liberty to be exercised within a period of one (1) month from date of receipt of this order.

12. These Writ Appeals are dismissed with liberty as above. No costs.

(A.S.M.,J.) (C.K.,J.)
27-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SL

DR.ANITA SUMANTH J.

AND

C.KUMARAPPAN J.

SL

To

The Assistant Commissioner ST
Kilpauk Assessment Circle,
Chennai 3.

WA Nos. 592 and 420 of 2026

27-02-2026