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

DATED : 02.01.2026

CORAM :

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

W.P.No.50017 of 2025
and
WMP No.55951 of 2025

M/s.Nanban Container Lines Pvt Ltd.,
3rd Floor, Room No.303,
Alphaa Towers, No.96, Armenian Street,
Mannady, Chennai – 600 001.
Through its Authorised Signatory
Mr.D.Venkatesan. ... Petitioner

Vs.

1.The Deputy State Tax Officer,
Broadway Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.305, Elephant Gate,
Bridge Road, Vepery,
Chennai – 600 003.

2.The Assistant Commissioner (ST),
Broadway Assessment Circle,
Chennai North Division,
TNGST Department, Chennai. ... Respondents

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 and connected with the impugned order dated 27.05.2025 passed by the first respondent, bearing reference GSTIN 33AAGCN0100K1Z0/2023 – 24, quash the same and consequently direct the second respondent to refund the amount of Rs.1,08,836/-.

For Petitioner : Mr.M.Harri Viswanaath

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

**ORDER**

Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate 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 order dated 27.05.2025 for the tax period 2023-2024. By the impugned order, the demand proposed in Show Cause Notice in DRC -01 dated 26.03.2024 has been confirmed to which the petitioner filed a reply in Form GST DRC-06 on 04.03.2025.

4. According to the petitioner, the petitioner is entitled for concessional rate of tax in terms of S.No.9 (II) to **Notification No.11/2017-Central Tax (Rate)** dated **28.06.2017**. The text of the aforesaid notification is reproduced below :-

> "*G.S.R.......(E) – In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table :-*

| ***SI.No.*** | ***Chapter, Section or Heading*** | ***Description of Service*** | ***Rate (per cent.)*** | ***Condition*** |
|---|---|---|---|---|
| ***(1)*** | ***(2)*** | ***(3)*** | ***(4)*** | ***(5)*** |
| *9* | ***Heading 9965*** *(Goods Transport Service)* | *(i) Transport of goods by rail (other than services specified at item no.(iv)).* | *2.5* | *Provided that credit of imput tax charged in respect of goods in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service* |
| | | *(ii) Transport of* | *2.5* | *Provided that* |

| SI.No. | Chapter, Section or Heading | Description of Service | Rate (per cent.) | Condition |
|---|---|---|---|---|
| | | *goods in a vessel.* | | *credit of imput tax charged on goods (other than on ships, vessels including bulk carriers and tankers) used in supplying the service has not been taken [please refer to Explanation no(iv)]* |

The benefit of the above notification is conditional. Clause (iv) to Explanation 4 to the above notification is reproduced below :

*"4.Explanation :- For the purposes of this notification -*

*(iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods of services used in supplying the service has not been taken, it shall mean that :-*

*(a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken ; and*

*(b) credit of input tax charged on goods or services used partly for supplying such services and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder."*

5. In the reply in Form GST DRC-06 dated 04.03.2025, the petitioner has not given the particulars to substantiate that the petitioner was indeed entitled for the benefit of S.No.9 to the aforesaid notification. Instead, attempt is made now by drawing attention to the invoices of the petitioner on the strength of which the Input Tax Credit was availed.

6. There are several disputed questions of fact which cannot be considered by this Court under Article 226 of Constitution of India. The Appellate Authority has been prescribed under the Act to examine the same. However, the petitioner has slept over the rights by not filing the statutory appeal against the impugned assessment order dated 27.05.2025 within the prescribed time.

7. At best, liberty can be granted to the petitioner to file a statutory appeal before the Appellate Authority within a period of thirty (30) days from the date of receipt of a copy of this order, subject to the petitioner depositing 25% of the disputed tax within such time.

8. In case an appeal is filed by the petitioner as ordered above, the Appellate Authority shall consider and dispose of the appeal on merits without further reference to limitation.

9. It is needles to state any amount recovered from the petitioner towards the tax liability confirmed vide impugned order shall be adjusted towards the aforesaid pre-deposit of 25% of the disputed tax.

10. It is open for the petitioner to substantiate the defense and canvass all issues before the Appellate Authority.

11. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

**02.01.2026**

mtl
Neutral Citation : Yes /No

To:

1.The Deputy State Tax Officer,
Broadway Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.305, Elephant Gate,
Bridge Road, Vepery,
Chennai – 600 003.

2.The Assistant Commissioner (ST),
Broadway Assessment Circle,
Chennai North Division,
TNGST Department, Chennai.

**C.SARAVANAN, J.**

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