IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.2296 of 2026
and
W.M.P.Nos.2545 and 2546 of 2026

M/s.Asian Lifts and Escalator Private Limited,
(Represented by its Managing Director Rajesh Kumar)
1st & 2nd Floor, Nos.127 & 128,
GK Central, Porur Garden Phase-1,
Vanagaram, Chennai-600 095. ... Petitioner

Vs.

Assistant Commissioner of CGST & Central Excise,
Porur Division, Chennai South Commissionerate,
Newry Towers, Plot No.2054,
I Block, 12th Main Road, II Avenue,
Anna Nagar, Chennai-600 040. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned Order bearing reference number 98/2024/GST/AC dated 08.08.2024 passed by the Respondent and quash the same as the same is arbitrary, without authority of law and in contravention of section 16(5) of GST act and also in violation of the principles of natural justice and also in violation of Articles 14, 19(1)(g) and 265 of the Constitution.

For Petitioner : Mr.G.Natarajan
For Respondent : Mr.Sai Srujan Tayi,
Senior Standing Counsel

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O R D E R

Mr.Sai Srujan Tayi, learned Senior Standing Counsel takes notice for the Respondent.

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 Respondent.

3. The petitioner is before this Court challenging the impugned order in Original No. 98/2024/GST/AC dated 08.08.2024 passed by the respondent. By the impugned order, the demand proposed in Show Cause notice No.66/2024/GST-AC dated 21.05.2024 has been confirmed and the Input Tax Credit (ITC) claimed belatedly by the petitioner has been denied under Section 16(4) of the respective GST Enactments.

4. Operative portion of the impugned order dated 08.08.2024 reads as under:-

> "24. Accordingly, I pass the following order:
>
> i) I confirm the demand of GST of Rs.30,57,362/ (IGST of Rs.1,20,335/-, CGST Rs.11,44,865/-, SGST Rs.11,44,865/- and Cess-Rs.6,47,297/- (Rupees Thirty Lakh Fifty Seven Thousand Three Hundred Sixty Two Only) being the availment of ineligible ITC from them under Section 73(9)/73(1) of the

CGST / TNGST, Act 2017 applicable to Section 20 of IGST Act, 2017 read with Section 11 of the GST (Compensation to States) Act, 2017 as discussed in para 14 to 19 above.

ii) I confirm the demand of Interest from them for the demand as confirmed in Sl.No.24(i) above in terms of Section 50(3) of the CGST Act, 2017 as applicable to the provisions of TNGST Act, 2017 and Section 20 of IGST Act, 2017.

(iii) I impose a Penalty of Rs.3,05,736/- (IGST Rs.12,034/-, CGST Rs.1,14,486/-, SGST Rs.1,14,486/- and Cess Rs.64,730/-) (Rupees Three Lakh Five Thousand Seven Hundred and Thirty Six Only) under Section 122(2)(a) of the CGST Act, 2017 read with Section 73(1) and 73(9) of the CGST/SGST Act, 2017 as applicable to Section 20 of IGST Act, 2017 for the contravening the provisions of Section 16(4) of CGST/SGST Act, 2017 as applicable to Section 20 of IGST Act, 2017 for the demand confirmed in Para 24(i) above.

5. The issue with regard to belated availing of Input Tax Credit is no longer res integra and setled in favour of the petitioner by way of statutory intervention by insertion of Sections 16(5) and 16(6) vide **Finance (No. 2) Act, 2024 (Act No. 15 of 2024) dated 16.08.2024 with effect from 27.09.2024 vide S.O. 4253(E), retrospectively with effect from 01.07.2017.**

6. The substantial benefit of Input Tax Credit already availed by the petitioner cannot be denied merely on the ground of lapse of time. However, the issue as to whether the petitioner has satisfied the other statutory requirements for availing the Input Tax Credit is required to be adjudicated.

7. Considering the above, the impugned order is set aside and the matter is remitted back to the respondent to pass a fresh order on merits as expeditiously as possible, after hearing the petitioner and in accordance with law.

8. The petitioner shall produce adequate evidence to establish compliance with all other statutory requirements, except the time limit prescribed under Section 16 of the GST enactments. If the petitioner satisfies the same, the respondent shall drop the proceedings.

9. Failing which, liberty is granted to the respondent to pass appropriate orders on merits in accordance with law.

10. This writ petition is disposed of with the above observations. No costs. Consequently, the connected W.M.Ps. are closed.

06.02.2026

nvi

Neutral Citations: Yes/No

To:

Assistant Commissioner of CGST & Central Excise,
Porur Division, Chennai South Commissionerate,
Newry Towers, Plot No.2054,
I Block, 12th Main Road, II Avenue,
Anna Nagar, Chennai-600 040.

C.SARAVANAN, J.

nvi

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