BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18.03.2026

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THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.7189 of 2026
and
W.M.P(MD)Nos.5879, 5882 and 5884 of 2026

Esakkiammal Pthilingam Timbers Shamill
Represented by its Proprietrix
Mrs.Shunmugavel Essakiiyammal
No.142A/3, Main Road,
T.N.Pudugudi, Puliangudi,
Tirunelveli, Tamil Nadu-627 855 ... Petitioner

Vs.

1.The State Tax Officer,
Sankarankovil Assessment Circle,
No.114, Thiruvudaiyan Salai,
Sankarankovil-627 756

2.The Branch Manager,
Tamil Nadu Mercantile Bank Ltd.,
442-6, Tenkasi Main Road,
Kodeswaran Complex,
Chokkampatti Panchayat,
Punnaiyapuram-627 855 ...Respondents

Writ Petitions are filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records from the file of the respondent in impugned orders in GSTIN:33AAUPE4656l1Z9/2019-20 dated 18.03.2025 and Reference No.ZD330325123443U in GSTIN/ID : 33AAUPE4656L1Z9 dated 18.03.2025 and subsequent impugned rectification order in From GST DRC-08 in Reference No.ZD330425168005N dated 23.04.2025 and GSTIN: 33AAUPE4656L1Z9/2019-20dated 23.04.2025 passed by the respondent for the F.Y.2019-2020 and quash the same as illegal without jurisdiction and violative of principles of natural justice.

For Petitioner :Mr.R.Ananth
For R1 :Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned order dated 18.03.2025, which is an order of assessment passed under Section 74 of the TNGST Act, and the orders dated 23.04.2025, which is an order passed rejecting the rectification application that is filed by the petitioner.

2.Upon hearing the learned counsel for the petitioner and perusing the material records of the case, the case of the petitioner is that when the show cause notice was issued, the petitioner has claimed input tax credit on an ineligible account with reference to the purchase of a vehicle, etc. The petitioner has shown cause by stating that upon noticing the defect, the petitioner has rectified the same and has also paid the entire tax liability.

3.In spite of the reply, the impugned order of assessment was passed under Section 74 of the Act, imposing penalty and also interest on the petitioner. When the petitioner moved an application for rectification, the same is also now dismissed and in that the original quantum of penalty was also enhanced.

4.The learned counsel for the petitioner submits that in the show cause notice issued to the petitioner, though the details of blocked credit in the show cause notice issued to the petitioner were mentioned, it was only mentioned that on verification of GSTR-2B details the taxable person has claimed ITC on purchase of vehicles for own use and also claimed ITC on ineligible invoices. There is absolutely no whisper as to any willful attempt to evade tax or short pay tax. In the absence of the same, the authorities are not justified in invoking section 74 of the TNGST Act.

5.Per contra the learned Additional Government Pleader would submit that the petitioner also has an appeal remedy as against the orders. Further it can be seen from section 74 of the Act, that even if there is any short payment of tax also, if the same is willfully made, the authorities will be justified in invoking section 74 of the TNGST Act.

6.I have considered the rival submissions made on either side and perused the material records of this case.

7.Though normally the petitioner can be relegated to the appellate remedy, in this case the ground that is taken is with reference to principles of natural justice. If only the input tax credit has been wrongly availed or utilized by reason of fraud or any willful misstatement or suppression of fact to evade tax, section 74 can be invoked. This Court, in ***Neeyamo Enterprises Solutions Private Limited Vs. The Commercial Tax Officer, Office of the Joint Commissioner(State Tax)(Intelligence), Commercial Taxes Building, Dr.Thangaraj Salai, K.K.Nagar, Madurai(W.P(MD)No. 30453 of 2024),*** had held that unless the show cause notice categorically spells out the willfulness, fraud, etc., there would be no proper opportunity. The said issue was also considered by this Court in ***W.P(MD)Nos.6708 and 6710 of 2026(Tvl.T.Balasubramanian Vs. The State Tax Officer(Roving Squad-2), O/o.The Joint Commissioner(ST)(IW), Commercial Taxes Buildings, Tirunelveli)***. In view thereof, I am of the view that the averments in the show cause notice do not categorically put across to the petitioner the ingredients as per section 74 of the Act.

8.The learned counsel for the petitioner submits that for the erroneous entry, it can be straight away decided by this Court that the authorities can only proceed under section 73 of the Act, but when the matter is being remanded back, it will be open for the petitioner to take such a plea before the authority. As the authority has to consider the nature of transactions and decide as to the willfulness, suppression, fraud etc., this Court is remanding the matter back, such findings cannot be prematurely made. Therefore, the liberty of the petitioner to raise the said ground also before the respondent authority is kept open.

9.In view thereof, this writ petition is ordered on the following terms:

(i)The impugned orders dated 18.03.2025 shall stand quashed.

(ii)The matter is remitted back to the file of the first respondent for fresh consideration.

(iii)The first respondent will be entitled to issue a fresh show cause notice in respect of the same cause of action after due application of mind and categorically mentioning such averments to invoke either Section 73 or Section 74 of the Act. It will be open for the petitioner to submit fresh reply along with supporting documents including raising the plea that the matter would come only within Section 73 of the TNGST Act. It is for the first respondent to consider the matter afresh and pass orders in accordance with law. In view of the impugned order being set aside, the bank attachment that is made shall stand raised. No costs. Consequently, connected miscellaneous petitions are closed.

18.03.2026

NCC:Yes/No
Ns

To
1.The State Tax Officer,
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D.BHARATHA CHAKRAVARTHY, J.

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