Case Citation: (2026) taxcode.in 1025 HC

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21.04.2026

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.11369 of 2026
and
W.M.P.(MD).No.8772 of 2026

M/s. Abarna Match Industries,
Represented by its Proprietor,
D.Ramamoorthy ... Petitioner

Vs.

The State Tax Officer,
Commercial Tax Building,
Srivilliputhur. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records in the impugned Order in GSTIN 33AKCPR1371B1ZO/2018-19 dated 26/12/2025 of the Respondent and to quash the same as illegal, arbitrary, wholly without jurisdiction and violative of principles of natural justice.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.R.Suresh Kumar,
Additional Government Pleader

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ORDER

The writ petition is filed challenging the impugned order dated 26.12.2025, which is an order passed under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017.

2. Heard Mr.S.Karunakar, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, who takes notice on behalf of the respondent.

3. The learned counsel appearing for the petitioner would submit that, on account of the available credit, the petitioner claimed the benefit of input tax and sought a refund of Rs.4,75,859/-, which was originally ordered. However, on appeal by the Revenue to the Appellate Authority, the same was reversed.

4. He would further submit that the petitioner has already decided to file a second appeal before the appropriate authority. While the appeal was being uploaded, even though the petitioner had already deposited the 10% amount, the appeal was not taken on file due to glitches in the

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portal. In the interregnum, the impugned order was passed under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017.

5. It is the contention of the learned counsel for the petitioner that, firstly, in view of the circular dated 18.11.2019, and more specifically with reference to Class 22, an order under Sections 73 or 74 of the Act cannot be passed. In any event, this is not a case where the respondent can fix their claim under Section 74 of the Act and charge penalty and interest as per the same section.

6. Per contra, the learned Additional Government Pleader would submit that if the refund in this case has already been ordered and the petitioner has availed the refund, steps must be taken by passing the appropriate order under Section 73 or 74, as the case may be, to recover the liability from the petitioner.

7. He would further submit that, therefore, the authorities were justified in passing the impugned order.

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

9. As far as the alleged violation of the circular dated 18.11.2019 is concerned, I am unable to accept the submission made by the learned counsel for the petitioner. Clauses 20 to 22 of the said circular are extracted below for ready reference:

> *20. In case of rejection of refund claim of unutilized/accumulated ITC due to ineligibility of the input tax credit under any provisions of the CGST Act and rules made thereunder, the proper officer shall have to issue a show cause notice in FORM GST RFD-08, under section 54 of the CGST Act, read with section 73 or 74 of the CGST Act, requiring the applicant to show cause as to why:*
>
> *(a) the refund amount corresponding to the ineligible ITC should not be rejected as per the relevant provisions of the law; and*
>
> *(b) the amount of ineligible ITC should not be recovered as wrongly availed ITC under section 73 or section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.*
>
> *21. The above notice shall be adjudicated following the principles of natural justice and an order shall be issued, in FORM GST RFD-06, under section 54 of the CGST Act, read with section 73 or section 74 of the CGST Act, as the case may be. If the adjudicating authority decides against the*

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applicant in respect of both points (a) and (b) above, then FORM GST RFD-06 shall have to be issued accordingly, and the amount of ineligible ITC, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of FORM GST DRC-07. Alternatively, the applicant can voluntarily pay this amount, along with interest and penalty, as applicable, before service of the demand notice, and intimate the same to the proper officer in FORM GST DRC-03 in accordance with sub-section (5) of section 73 or sub-section (5) of section 74 of the CGST Act, as the case may be, read with sub-rule (2) of rule 142 of the CGST Rules. In such cases, the need for serving a demand notice for recovery of ineligible ITC will be obviated. In any case, the proper officer shall order for the rejected amount to be re-credited to the electronic credit ledger of the applicant using FORM GST PMT-03, only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

22. In case of rejection of a claim for refund, on account of any reason other than the ineligibility of credit, the process described in para 20 and 21 above shall be followed with the only difference that there shall be no proceedings for recovery of ineligible ITC under section 73 or section 74, as the case may be.

10. Therefore, in a case of rejection of a refund, which would include the appellate stage as well, the authorities must resort to proceedings under Section 73 or 74 of the Act, as the case may be, in accordance with Clauses 20 and 21 of the said circular. Clause 22 of the

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circular, however, states that in cases where a claim for refund is rejected for reasons other than the ineligibility of credit, an order under Section 73 or 74 of the Act, as the case may be, need not be issued.

11. In the present case, even as per the parties' submissions, it is apparent that the respondent is claiming ineligibility of credit, whereas the petitioner contends that the credit is available and is therefore preferring this second appeal. Accordingly, Clause 22 cannot be invoked in the instant case. As regards the other issue of whether the case falls under Section 73 or 74 of the Act, the same is kept open and need not be decided at this stage.

12. In view of the order to be passed, noting that the petitioner has already preferred a second appeal which has not been taken on file solely due to a glitch in the portal, I am of the view that the impugned order can be kept in abeyance until the final decision in the second appeal. The order shall be deemed communicated to the petitioner and shall take effect only on the date of passing of the order in the second appeal, depending on its outcome, these grounds can be raised by the petitioner through appropriate proceedings.

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13. In view thereof, this writ petition is disposed of on the following terms:-

i. The second appeal preferred by the petitioner shall be taken on file as early as possible, as the petitioner has already deposited 10% of the requisite amount and shall be disposed of by the appropriate authority in the manner known to law.

ii. The impugned order dated 26.12.2025 shall be kept in abeyance until the date of decision in the second appeal. If the second appeal ends in favor of the petitioner, automatically the order dated 26.12.2025, shall be deemed to be set aside and lapsed.

iii. If the second appeal ends in favor of the revenue, then it would be open for the petitioner to again reiterate the impugned order dated 26.12.2025 by way of appropriate proceedings and raise all its ground including the invocation of Section 74 of the TNGST Act, 2017.

iv. No costs. Consequently, connected miscellaneous petition is closed.

21.04.2026

Neutral Citation: No
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D.BHARATHA CHAKRAVARTHY, J.

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To

The State Tax Officer,
Commercial Tax Building,
Srivilliputhur.

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and
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