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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-04-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 17336 of 2026
and
WMP.Nos.18612 & 18614 of 2026

THCPL-SKE (JV)
Rep By Manager Vinothkumar
2/9 , 45/9 , 2nd Floor, AVM Avenue,
1st Main road, Virugambakkam,
Chennai 92

..Petitioner(s)

Vs

The State Tax Officer
Saligramam Assessment Circle,
No. 46 3rd Floor, Room No. 310 ,
Bishop Garden, Mylapore Taluk office Building,
Greenways Road, Chennai – 600 028.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records relating to the Impugned Order vide FORM GST DRC - 07 bearing Reference Number ZD330625156380J dated 16.06.2025 in 33AAKAT4486G1Z6/ 2021-2022, passed by the Respondent herein, to quash the same.

For Petitioner(s): Mr.Shiva Kumar G

For Respondent(s): Mrs. P.Selvi
Government Advocate

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ORDER

Mrs. P.Selvi, learned Government Advocate 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 case of the petitioner is that the petitioner is a joint venture between two companies engaged in undertaking certain works for the Indian Railways.

4. In this Writ Petition, the Petitioner has challenged the impugned Order dated 16.06.2025, whereby the proposal contained in the Show Cause Notice in GST DRC-01 dated 06.04.2023, for the tax period 2021-2022, has been confirmed, after considering the petitioner's reply dated 08.07.2024.

5. The operative portion of the impugned order reads as under:-

*"**Observations and conclusions of the proper officer:***
The tax payers have filed their reply along with certain comperative details of claim of ITC as mentioned below:-

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1. Comparison report of claim of ITC downloaded from GST portal
2. Statement representing the comparison of ITC claimed in GSTR – 3B & 2A
3. Verdictions of Section 16(2) and Rule 36 (4).

The above informations and details have been analysed with the discrepancy raised in the notice and observed the following facts.

The reply and the details are not providing valid evidences and cause pertinent to dispute of excess claim of ITC in GSTR-3B than in GSTR-2A. They have conveniently relied on the restrictions regarding availment of ITC, placed under Section:16(2) read with Rule 36(4) of TNGST Rule. These are applicable only upto the period of 31.12.2021. As per the stipulations made under para – 5 of Circular No: 193/05/023 GST dated : 17.07.2023, no ITC shall be allowed in respect of a supply unless the same is reported by his suppliers in Form GSTR-1, which is communicated to the registered person in Form GSTR-2B.

Besides, the latest downloaded copy of comparison statement of GSTR-3B & GSTR-2B reflected the same shortfall of ITC. No other material evidences in support of accumulation ITC tallying the shortfall has been produced. Thus, the reply filed by the tax payers seems to be not in order, which leads to confirm the proposal made in the notice.

Hence, the demand is raised as per the provision under Section 73 of the TNGST Act 2017 with other consequental levies as below:

Determination of Demand

Particulars	Amount Payable			
	IGST(Rs.)	CGST(Rs.)	SGST(Rs.)	Total
Liability due to excess claim of ITC	0	185634	185634	371268
Interest levied u/s:50(1)	0	105552	105552	211104
Penalty warranted u/s: 73(9)	0	18563	18563	37126
Total	0	30947	309749	619498

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Note: *interest is calculated till the date of order. The taxpayer shall pay interest calculated till the date of payment.*

The above dues are entered in necessary columns of Form DRC – 07."

6. The dispute has arisen primarily on account of the mismatch between the amount reflected in GSTR-2B and the Input Tax Credit (ITC) claimed, as reflected in the GST portal comparison table at Serial No.4.

7. In the aforesaid comparison contained in the Impugned order, the GSTR-2B details for the month of January 2022 indicate that the ITC claimed for the said period has been shown only to the extent of SGST and CGST at Rs.1,85,634/-each.

8. The learned counsel for the petitioner has produced a copy of the extract from the Auto-drafted ITC statement in GSTR-2B for the period January 2022, which reflects the ITC details. Relevant extract is reproduced as under:-

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Input tax credit claimed and due (Other than import of goods)

Tax period	ITC claimed in GSTR-3B during the month [as per table 4A(4)+4A(5)-4B(1)-4B(2)] *				ITC auto-drafted in GSTR-2B during the month [as per table B2B, B2BA, CDNR, CDNRA] (Excluding RCM supplies)			S
	IGST	CGST	SGST/UTGST	CESS	IGST	CGST	SGST/UTGST	CESS
1	2	3	4	5	6	7	8	9
Apr-21								
May-21								
Jun-21								
Jul-21								
Aug-21								
Sep-21								
Oct-21								
Nov-21								
Dec-21	0.00	0.00	0.00	0.00				
Jan-22	0.00	1,85,634.00	1,85,634.00	0.00				
Feb-22	316.03	10,46,095.10	10,46,095.10	0.00	632.03	10,46,095.10	10,46,095.10	0.00
Mar-22	0.00	1,41,296.16	1,41,296.16	0.00	0.00	1,41,296.16	1,41,296.16	0.00
Total	**316.03**	13,73,025.26	13,73,025.26	**0.00**	**632.03**	11,87,391.26	11,87,391.26	**0.00**

9. Comparison in Serial No.4 relating to the Input Tax Credit claimed and the ITC available in GSTR-2B indicates that the petitioner is entitled to the Input Tax Credit reflected in GSTR-2B, which has not been properly reflected in the comparison table.

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10. *Prima facie,* it appears that the impugned order has been passed without considering the facts of the case on merits. Though the impugned order refers to the reply submitted by the petitioner and the legal submissions made by the petitioner, the same do not appear to have been properly considered.

11. Considering the same, the impugned order is quashed, and the case is remitted back to the respondent to pass a fresh order on merits, after considering the submissions of the petitioner and affording an opportunity of personal hearing to the petitioner.

12. The issue relating to the attachment of the bank account is left open.

13. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

30-04-2026

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

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To

The State Tax Officer
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