WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-09-2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 18301 of 2022
and WMP.No.17659 of 2022

M/s.Madras Hydralic Hose (P) Ltd
Rep. by its Vice Chairman,
Mr. T Ajay,
D-165,SIPCOT INDUSTRIAL COMPLEX,
Gummadipoondi,
Tamil Nadu - 601 201.

..Petitioner(s)

Vs

1. The Chairman
   Central Board of Indirect Taxes,
   North Block, New Delhi - 110 001.

2. Commissioner of Central
   Tax and Central Excise,
   Audit II Commissionerate,
   No. 692, MHU Complex, Anna Salai,
   Nandanam, Chennai - 600 035.

3. The Joint Commissioner,
   Audit II Commissionerate,
   No. 692, MHU Complex, Anna Salai,
   Nandanam, Chennai - 600 035.

..Respondent(s)

PRAYER : Writ petition filed under article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call upon the entire records pertaining to the Show Cause Notice No. 17/2022-GST (JC) dated 09.06.2022, on the file of the 3rd Respondent and QUASH the same to the extent of the demand made under Issue No. 1 and Issue No. 2

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

For Petitioner(s): M/s.J.Aparna
for M/s.J.V.Niranjan

For Respondent(s): Mr.M.Karthikeyan
for M/s. A.P. Srinivas
Senior Standing Counsel
for R1 to R3

ORDER

The present writ petition is filed challenging the Show Cause Notice No.17/2022-GST (JC) dated 09.06.2022 passed by the 3rd respondent and to quash the same to the extent of the demand made under Issue Nos.1 and 2.

2. The learned counsel for the petitioner submitted that the petitioner Company is engaged in the manufacture of high pressure hoses used in various pneumatic applications among others and from the date of inception, the petitioner Company has been filing the tax returns regularly and has been a tax compliant legal entity. The learned counsel further submitted that the petitioner Company cleared both the domestic market on payment of Goods and Services Tax and also exports to various countries and also to Special Economic Zone units in India without payment of Goods and Services Tax. According to the petitioner, petitioner Company exports its products without payment of GST, there is an accumulated credit in the books of petitioner Company and an

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

application for refund of the accumulated credit was made in terms of Section 54 of the GST Act read with Rule 89 of the GST Rules. Show Cause Notice dated 09.06.2022 has raised nine issues as against the petitioner and the same are extracted hereunder:-

Issue No.1

The total amount of erroneous refund claimed and sanctioned to the TP during the period from July 2017 to March 2020 working out to IGST of Rs.7,92,07,287/- should not be demanded and recovered from the TP in terms of Section 74 of CGST Act read with Section 20 of IGST Act, 2017 along with interest payable thereon under section 50 of the CGST Act read with Section 20 of IGST Act, 2017 and a penalty equivalent to the refund amount specified under section 122 2(b) of CGST Act read with Section 20 of IGST Act and a penalty equivalent to the refund amount specified under Section 74(9) of the CGST Act'2017 read with Section 20 of IGST Act.

Issue No.2

The total amount of erroneous refund claimed and sanctioned to the TP during the period from July 2017 to March 2020 working out to IGST of Rs. 4,93,80,056/- should not be demanded and recovered from the TP in terms of Section 74 of CGST Act read with Section 20 of IGST Act, 2017 along with interest payable thereon under section 50 of the CGST Act read with Section 20 of IGST Act, 2017 and a penalty equivalent to the refund amount specified under section 122 2(b) of CGST Act read with Section 20 of IGST Act.

Issue No. 3:

An amount of Rs.54,352/- (IGST - Rs. 7,408, CGST-Rs. 23,472/- and SGST-Rs. 23,472/-) demanded in respect of issue no. 3 towards non reversal of ITC on common credit under rule 42 of CGST rules 2017

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

should not be demanded and recovered from them under Section 73 of the CGST Act'2017/TNGST Act'2017/ CGST Act read with Section 20 of IGST Act, 2017 along with interest of Rs. 23,581/- (IGST Rs 3,365/-, CGST - 10,108/-, SGST 10,108/-) payable thereon under section 50 and a penalty specified under section 122 2(a) / and Section 73(9).

Issue No. 4:

An amount of Rs.15,67,910/- (IGST - Rs. 17,975, CGST-Rs. 7,65,980/- and SGST-Rs. 7,65,980/-) demanded in respect of issue no. 4 towards wrong availment of the ITC credits blocked under section 17(5) of CGST act 2017 should not be demanded and recovered from them under Section 73 along with interest payable thereon under section 50 and a penalty specified under section 122 2(a) / and Section 73(9).

Issue No. 5:

An amount of Rs. 6,37,062/- (CGST Rs. 3,18,531/- SGST Rs. 3,18,531/) demanded in respect of issue no. 5 towards non-reversal of the ITC thereon for non-payment of amount to suppliers within 180 days should not be demanded and recovered from them under Section 73 along with interest payable thereon under section 50 and a penalty specified under section 122 2(a).

Issue No. 6:

An amount of Rs. 33,19,754/-(IGST Rs. 4,01,912/-, CGST Rs.14,58,921/- & SGST Rs. 14,58,921/-) demanded in respect of issue no. 6 towards wrong/excess availment of ITC for the invoices not reflected in GSTR-2A from July 2017 to March 2020 should not be demanded and recovered from them under Section 73 along with interest and penalty.

Issue No. 7:

An amount of Rs.30,706/-(CGST Rs. 15,353/- & SGST Rs. 15,353/-) demanded in respect of issue no. 7 towards non-payment of

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

GST under RCM for receiving services from government for the renewal of factory license and ROC fees should not be demanded and recovered from them under Section 73 along with interest and penalty.

Issue No. 8:

An amount of Rs. 1,54,840 (IGST Rs.1,54,840) demanded in respect of issue no. 8 towards irregular availment of concessional rate of duty in terms of notification 47/2017 (IGST) (rates) dated 14.11.2017 on the supplies made to Government should not be demanded and recovered from them under Section 73 of the CGST Act 2017/TNGST Act 2017/CGST Act read with Section 20 of IGST Act, 2017/TNGST Act 2017/CGST Act read with Section 20 of IGST Act, 2017 and a penalty specified under Section 122 2(a) of CGST Act 2017/TNGST Act 2017/CGST Act read with Section 20 of IGST Act, 2017 and Section 73(9) of the CGST Act 2017/TNGST Act 2017/CGST Act read with Section 20 of IGST Act, 2017.

Issue No. 9:

An amount of Rs. 11,75,585/- (IGST Rs. 9,13,953/-, CGST Rs. 1,30,816/- & SGST Rs. 1,30,816/-) demanded in respect of issue no. 9 towards irregular availment of the ITC in respect of the invoices not pertain to principal place of business should not be demanded and recovered from them under Section 73 of the CGST Act 2017/TNGST Act 2017/CGST Act read with Section 20 of IGST Act, 2017 along with interest payable thereon under Section 50 of the CGST Act 2017/TNGST Act 2017/CGST Act read with Section of of IGST Act, 2017 and a penalty specified under Section 122 2(a) of CGST Act 2017/TNGST Act 2017/CGST Act read with Section 20 of IGST Act, 2017 / and Section 73 (9) of the CGST Act 2017/TNGST Act 2017/CGST Act read with Section 20 of the IGST Act, 2017.

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

Issue No.10

an amount of Rs.23,51,407/- (IGST) demanded in respect of issue No.10 towards zero rated supplies to SEZ without payment of tax should not be demanded and recovered under Section 73 of the CGST Act 2017 read with Section 20 of IGST Act, 2017 along with interest payable thereon under Section 50 of the CGST Act 2017 read with Section 20 of IGST Act, 2017 and a penalty specified under Section 122 2(a) of CGST Act 2017 read with Section 20 of IGST Act 2017/and Section 73(9) of the CGST Act 2017 read with Section 20 of IGST Act 2017.

3. The learned counsel further submitted that though it is his specific case in the Show Cause Notice that with regard to Issue Nos.1 and 2, Show Cause Notice is an erroneous claim made by the petitioner with regard to refund, the learned counsel has pointed out that this issue has been covered by the judgement of the Hon'ble Supreme Court in the case of ***M/s.Goodluck India Limited and another Vs Union of India and others*** reported in ***2026 (8) TMI 719*** and the relevant paragraphs are extracted hereunder:-

> ***6. It was held by the Constitution Bench that if on omission of a rule, there was a provision for continuance of the proceedings already initiated or if by incorporation of a provision in the statute there was a legal device adopted creating a fiction by virtue of which proceedings under the omitted rule could be continued, only then proceedings initiated under the omitted rule could be continued.***
>
> ***7. The Constitution Bench decision applies squarely in the***

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

above case. We may also observe that even going by the recommendations as extracted here in above, sub-rule (10) of Rule 96 was omitted because it was leading to unnecessary complications without any intended benefit being served (sic). As fairly submitted by the learned ASG the legislature has not brought in any saving clause or a sunset clause, when sub-rule (10) of Rule 96 was omitted. The recommendation that the omission should be prospective is also advisory in nature and does not bind the rule making authority. The intention to omit the rule without any saving clause was to bring to an end, the unnecessary complications once and for all and the intention cannot be to keep alive the unnecessary complications insofar as the pending proceedings are concerned.

4. The same principle has been followed by the Gujarat High Court in the case of ***Alstom Transport India Limited Vs Union of India and others*** reported in ***2026 (7) TMI 576***. By relying upon the two judgments passed by the Hon'ble Supreme Court and the High Court of Gujarat this Court had allowed the writ petitions filed by the petitioners in the case of ***M/s.Global Calcium Pvt Limited Vs Union of India, The Commissioner of Commercial Taxes, The State Tax Officer, Hosur*** reported in ***2026 (9) TMI 281*** and the relevant paragraphs are extracted hereunder:-

7. The issue raised in this batch is no longer res integra

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

as the Gujarat High Court in the case of Addwrap Packaging Private Limited (supra) held that the omission of sub-rule (10) of Rule 96 through the Notification No.20/2024 with effect from 08.10.2024 would enure to the benefit of all assessee's in the pending proceedings also.

9. In view of the fact that already decision has been taken holding that deletion made through the notification dated 08.10.2024 would be made applicable to all pending proceedings, all the writ petitions are disposed of in the light of the decision of the Gujarat High Court in the case of Addwrap Packaging Private Limited (supra) as affirmed by the Supreme Court in the case of Goodluck India Limited (supra) holding that deletion of sub-rule (10) of Rule 96 of CGST Rules, 2017 through Notification No.20/2024 dated 08.10.2024 would enure and apply to all the assessee's in the pending proceedings.

10. In view of the aforesaid decision, all other cases where show cause notices and orders in original are assailed and refund is claimed, the same shall be processed pursuant to the aforesaid decision taken.

5. As the issue with regard to the omission of Sub-rule (10) of Rule 96 through the Notification No.20/2024 with effect from 08.10.2024 would enure to the benefit of all assessees in the pending proceedings also. This view must be taken based on the judgement of the Hon'ble Supreme Court in the case of

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

M/s.Goodluck India Limited and another Vs Union of India and others reported in ***2026 (8) TMI 719.*** It was held in the Constitution Bench that if an omission of a rule, there was a provision for continuance of the proceedings already initiated or if by incorporation of a provision in the statute there was a legal device adopted, creating a fiction by virtue of which proceedings under the omitted rule could be continued, only then proceedings initiated under the omitted rule could be continued.

6. In the present case also there is no such enabling provision in the Show Cause Notice and there is no averment with regard to enabling the provision and therefore, out of 10 issues, issue Nos.1 and 2 are covered by the judgment of the Hon'ble Supreme Court in the case of ***M/s.Goodluck India Limited and another Vs Union of India and others*** reported in ***2026 (8) TMI 719***. In view of the same issue Nos.1 and 2 are hereby set aside and quashed and for the other issues with regard to issue Nos.3 to 10, the petitioner is at liberty to give reply to the Show Cause Notice within a period of four weeks from the date of receipt of a copy of this order and the respondents shall consider the same and pass appropriate orders within a period of eight weeks, thereafter. To this extent the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is also closed.

09-09-2026

Index: Yes/No
Speaking/Non-speaking order
DPQ

https://www.mhc.tn.gov.in/judis
www.taxcode.in

WEB COPY

N. SENTHILKUMAR, J.

DPQ

To

1. The Chairman
   Central Board of indirect Taxes, North Block,
   New Delhi - 110 001.
2. Commissioner of Central Tax and Central Excise,
   Audit II Commissionerate, No. 692, MHU Complex, Anna Salai, Nandanam, Chennai - 600 035.

3. The Joint Commissioner,
   Audit II Commissionerate, No. 692, MHU Complex, Anna Salai, Nandanam, Chennai - 600 035.

WP No. 18301 of 2022

09-09-2026

https://www.mhc.tn.gov.in/judis
www.taxcode.in