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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-09-2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP Nos.7580 & 7583 of 2024 and

WMP Nos.8505, 8508, 8498 & 8502 of 2024

TVL.Sakthi Steel Industries
Rep. by its Director Mr.G.T. Balaji,
No.18 /26 2nd Street
Loganathan Nagar, Choolaimedu,
Chennai-600 094.

..Petitioner in both cases

Vs

1. Assistant Commissioner (ST) (FAC)
   Vadapalani Assessment Circle,
   Greams Road, Annex Building,
   Chennai-600 006.

2. Commercial Tax Officer
   Vadapalani Central -1 Chennai,
   Tamil Nadu.

..Respondents in both cases

Prayer in W.P.No.7580 of 2024: Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records in order passed by the 1st respondent vide GSTIN /33AAPCS1403D1ZT/2021-2022 dated 08.12.2023 and consequential DRC-07 order under Sec 74 Ref No.ZD331223045976B, dated 08.12.2023 issued by the 2nd Respondent and quash the same as arbitrary and issue a consequential direction to the first and second Respondent to drop the proceedings.

Prayer in W.P.No.7583 of 2024: Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus,

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calling for the records in order passed by the 1st respondent vide GSTIN /33AAPCS1403D1ZT/2020-2021 dated 08.12.2023 and consequential DRC-07 order under Sec 74 Ref No.ZD331223046064X, dated 08.12.2023 issued by the 2nd Respondent and quash the same as arbitrary and issue a consequential direction to the first and second Respondent to drop the proceedings.

In both cases
For Petitioner: Ms.P.Jayalakshmi

For Respondents: Mr.R.Sethu Prabakaran,
Government Advocate (Taxes)

COMMON ORDER

These writ petitions have been filed seeking to quash the order of the 1st respondent in GSTIN /33AAPCS1403D1ZT/2021-2022 dated 08.12.2023 and consequential proceedings of the 2nd respondent in DRC-07 order under Sec 74 Ref.No.ZD331223045976B, dated 08.12.2023 and GSTIN /33AAPCS1403 D1ZT/2020-2021 dated 08.12.2023 passed by the 1st respondent and consequential proceedings in DRC-07 order under Sec 74 Ref.No. ZD331223046064X, dated 08.12.2023 passed by the 2nd respondent and prays for a direction to the Respondents to drop the proceedings.

2. The brief facts of the case are that the petitioner firm possess GSTIN 33AAPCS1403D1ZT which has been duly registered under the provisions of the Central Goods and Services Tax Act, 2017 (in short CGST Act). The petitioner is filing returns periodically capturing outward supplies in GSTR-1 and monthly returns in GSTR-3B and the petitioner has availed Input Tax

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Credit to the conditions outlined in Section 16(2) and 16(4) of the CGST/TNGST Act, 2017. Upon issuance of the show cause notice on 29.09.2023 and 04.10.2023, the petitioner diligently addressed alleged discrepancies in their transactions with Tvl.Metal Trade Corporation and Tvl.Antony Traders respectively, questioning the authenticity of the suppliers identity and categorizing them as non existent tax payers. Pursuant to the notice issued, the petitioner has submitted a detailed reply on 06.10.2023, fortified with comprehensive evidences. Thereafter, the respondent dropped the demand recognizing the legitimacy of the transactions vide order dated 07.10.2023. Despite this the respondent Department issued DRC – 01 on 30.11.2023 raising concerns about the retrospective cancellation of the supplier's registration. The petitioner also filed reply vide DRC-06 dated 02.12.2023 reiterating their bonafies and providing additional documents. However, an order came to be passed on 08.12.2023 along with a consequently DRC-07 order under Sec 74 of the CGST Act, demanding to pay the tax amount along with penalty, against which the present writ petitions have been filed.

3. The learned counsel for the petitioner would submit that their purchase effected from Tvl.Metal Trade Corporation and Tvl.Antony Traders, whose identity was alleged as unknown and that they are non-existent tax payers. He further contended that the order dated 06.10.2023 has been passed by the first respondent wherein the first respondent admitted that the petitioner

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is filing their GSTR-3B returns and duly paid tax for the same. The relevant portions are extracted hereunder:

> *"Accordingly, notice was issued dated 04.10.2023. In response, the tax payer has filed their clarification in their letter dated 05.10.2023 and stated that they have effected purchase from Tvl.Metal Trade Corporation whose identified as non-existent tax payer. Whereas, they have clarified that Tvl.Metal Trade Corporation is still alive in the jurisdiction of Vadapalani Assessment Circle and running their business at their registered place of business at No.15, Rahavan Colony, 3rd cross street, Vadapalani, Chennai. They are filing their GSTR-3B returns and duly paid tax for the same. We herewith enclosed our purchase ledger, invoice copies, E-way bill copy, Weighment receipt for every transaction.*
>
> *During the year, the tax payer has declared purchase turnover for a value of Rs.2,07,04,383.60.00 for which they have produced invoice copies, bank payment proof, E-way bill copy, ledger copy which were carefully examined with GSTR-2A copy. All the transactions were reflected in GSTR-2A and they have provided that the transaction has been genuine. Moreover, the tax payer has referred the following Judgment.*"

4. Subsequently, on 07.10.2023, the 2nd respondent has passed the following order, dropping the proceedings initiated against the petitioner:

> "*With reference to the above referred show cause notice issued to you for representing your case against the reasons*

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stated in the Annexure attached thereto and on the basis of information available on record, the proceedings are hereby dropped for the reasons and other details stated in the Annexure attached herewith"

5. The learned counsel further pointed out that inspite of the petitioner producing all relevant documents, the respondents have cancelled the registration of the petitioner vide order dated 30.11.2023, seeking clarification to the effect that the tax payer has effected purchase after effective date of registration number has been cancelled which is non-est in the eye of law. The relevant paragraph is extracted hereunder:

> "*On further cross examined with departmental web data, it is noticed that registration has been cancelled by suo moto cancelled on 11.09.2023 with effective date from the date of registration. Therefore, the tax payer has effected purchase after effective date of registration number has been cancelled.*"

6. To substantiate her contention, the learned counsel relied upon the Judgment of this Court in ***M/s.Engineering Tools Corporation, Rep. by its Partner Vs. The Assistant Commissioner (St), Chennai*** reported in ***2024(2) TMI 855 MHC*** wherein this Court has held that the ITC claim should not be rejected upon reconsideration on the ground that the supplier's GST registration was cancelled with retrospective effect and a fresh assessment order should be issued upon reconsideration, after providing a reasonable opportunity to the petitioner. The relevant paragraph is extracted hereunder:

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"5.....

From the above extract, it is abundantly clear that the contentions of the petitioner were rejected entirely on the ground that the petitioner should have proved the existence of M/s.Shikhar Technologies. The petitioner purchased goods in 2017-2018 and, at the highest, the petitioner may be called upon to produce evidence of the existence of the supplier at the relevant point of time. In addition, the petitioner may be called upon to prove that the transaction was genuine by providing relevant documents such as tax invoices, e-way bills, lorry receipts, delivery challans, proof for payment and the like. In the case at hand, it appears that the petitioner submitted such documents but these documents were disregarded. The impugned assessment order is unsustainable in the facts and circumstances.

6. Hence, the impugned assessment order is quashed and the matter is remanded for reconsideration. The assessing officer is directed to consider whether the transaction was genuine by examining all relevant documents in that regard. The ITC claim shall not be rejected upon such reconsideration solely on the ground that the supplier's GST registration was cancelled with retrospective effect and a fresh assessment order shall be issued upon reconsideration, after providing a reasonable opportunity to the petitioner, within a maximum period of two months from the date of receipt of a copy of this order."

7. Similarly, this Court has followed the said view in the Judgment in ***Tvl.Fathima Traders vs The Deputy Commercial Tax Officer, Chennai*** reported in ***2026 (7) TMI 750 MHC*** and passed the following order:

"*5. In the case at hand, it is admitted by the respondent, at paragraph 8 of the counter, that the registration of the petitioner's supplier was cancelled by order dated 06.12.2022. The orders impugned herein record the date of supply. Most of the transactions are prior thereto. The impugned orders also reject the Input Tax Credit claim of the petitioner solely on the ground of the retrospective cancellation of the petitioner's supplier's registration. For reasons set out in the earlier order dated 15.02.2024, the impugned orders cannot be sustained. In*

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other words, without examining as to whether the petitioner had established supply of goods by submitting invoices, e-way bills, lorry receipts and the like, the petitioner's claim should not have been rejected solely on the ground of the retrospective cancellation of the suppliers registration."

8. Per contra, The learned Government Advocate (Tax) appearing for the respondents would submit that the registration order was cancelled by *suo moto* on 11.09.2023 which is prior to the impugned order under challenge. According to the learned Government Advocate, for the known default of the petitioner, the impugned order came to be passed which needs no interference by this Court.

9. On perusal of records it is seen that the petitioner has effected purchase from Tvl.Metal Trade Corporation and Tvl.Antony Traders whose registrations were *suo moto* cancelled and thereafter the impugned order has been passed. This Court is of the view, without examining the fact about the supply of goods by the petitioner producing invoices, e-way bills, the petitioner's claim could not have be rejected solely on the ground of the retrospective cancellation of the suppliers registration. Hence, the orders passed by the respondents, dated 08.12.2023 are liable to be set aside.

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10. Accordingly, these writ petitions are disposed on the following terms:

i. The orders passed by the respondents 1 and 2 both dated 08.12.2023 which are impugned in both the writ petitions, are set aside.

ii. Both the matters are remanded back to the respondents authority for fresh consideration.

iii. The respondents are directed to afford an opportunity to the petitioner to produce relevant documents and pass appropriate orders within a period of three months from the date of receipt of copy of this order.

iv. It is made clear that since the drop order passed by the respondent authority, is without jurisdiction and *suo moto* order has been passed which is prior to the impugned order, the drop order shall be taken into consideration at the time of fresh assessment made by the respondents.

No costs. Consequently, connected miscellaneous petitions are closed.

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

1. The Assistant Commissioner (ST) (FAC)
   Vadapalani Assessment Circle,
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   Chennai-600 006.
2. The Commercial Tax Officer
   Vadapalani Central -1 Chennai,
   Tamil nadu.

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