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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P. Nos. 26740 and 26744 of 2023
and
W.M.P. Nos. 26178, 26179, 26181 and 26182 of 2023

M/s.JPP Mills Pvt. Ltd.,
Represented by its
P. Loganathan
SF No.411-413 Uppupalayam
Pathrai Village,
Namakkal,
Tamil Nadu – 638 008. ... Petitioner in both W.Ps

Vs.

1.Office of the Commissioner of GST & C. Ex.
No.1, Foulks Compound,
Anaimedu, Salem – 636 001.

2.Office of the Deputy Commissioner of GST & C. Ex.
Erode-II Division,
81 Bharathi Nagar,
Erode – 638 004. ... Respondents in both W.Ps

Prayer in W.P.No.26740/2023: Writ petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in order passed by the first respondent vide order in original No.02/2023 dated 23.03.2023 vide DIN 20230359XP0000053834

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and quash the same as bad in law, in violation of the principles of natural justice and judicial discipline, lacking jurisdiction, arbitrary, perverse and being violative of Articles 14 and 19(1)(g) of the Constitution and consequently direct the second respondent to drop the proceedings in line with the clarification issue vide the Board circular No.192/04/2023-GST dated 17.07.2023.

Prayer in W.P.No.26744/2023: Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in order passed by the first respondent vide order in original No.01/2023 dated 21.03.2023 vide DIN 20230359XP000000E954 and quash the same as bad in law, in violation of the principles of natural justice and judicial discipline, lacking jurisdiction, arbitrary, perverse and being violative of Articles 14 and 19(1)(g) of the Constitution and consequently direct the second respondent to drop the proceedings in line with the clarification issue vide the Board circular No.192/04/2023-GST dated 17.07.2023.

For Petitioner : Ms. N. Ieswarya
for Mr. M.N. Bharathi

For Respondents: Mr. K. Mohanamurali, SPC

COMMON ORDER

Since the issue involved in both the Writ Petitions is one and the same, they are taken up together and disposed of by this common order.

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2. These Writ Petitions have been filed challenging the respective orders passed by the first respondent and consequently, direct the second respondent to drop the proceedings in terms of Board Circular No.192/04/2023-GST, dated 17.07.2023.

3. The petitioner company is represented by its whole time Director, where the company had availed input tax credit for the Assessment Years 2017-18 and 2018-19. During the course of verification of the invoice by the Audit Circle, it was found that the availment of the credit is ineligible and not in accordance with Section 17(5) of the CGST Act, 2017. Therefore, a Show Cause Notice was issued by the respondents on 06.06.2022. Aggrieved by the said notice, the petitioner gave a reply to the show cause notice and reversed the credit availed by them on 14.09.2021 and 08.10.2021. However, according to the petitioner, without considering the submissions made by the petitioner, the respondents confirmed the demand by passing impugned orders dated 23.03.2023 and 21.03.2023, respectively.

4. The learned counsel appearing for the petitioner submits that the Government of India, through Circular No.192/04/2023-GST, dated

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17.07.2023, issued by the Ministry of Finance, subject to clarification with regard to the charging of interest under Section 50(3) of CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof. The said clarification is extracted hereunder:-

S.No.	Issue	Clarification
1.	In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.	Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B of CGST Rules and for determining as to whether the balance in the electronic credit ledger has fallen below the amount of wrongly availed input tax credit of IGST, and to what extent the balance in electronic credit ledger has fallen below the said amount of wrongly availed credit. Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under sub-section (3) of section 50 of CGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such

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		wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit. However, when the balance of ITC, under the heads of IGST, CGST and SGST of electronic credit ledger taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in electronic credit ledger under heads of IGST, CGST and SGST taken together fall below such amount of wrongly availed IGST credit, and will attract interest as per sub-section (3) of section 50 of CGST Act, read with section 20 of Integrated Goods and Services Tax Act, 2017 and sub-rule (3) of rule 88B of CGST Rules.

4.1. The learned counsel further submitted that the clarification issued by the Department clarifies that, if the total balance in the electronic credit ledger under the heads of IGST, CGST and SGST, taken together, falls below the amount of wrongly availed IGST credit and will attract interest in terms of sub-section (3) of Section 50 of CGST Act, read with Section 20 of IGST Act, 2017 and sub-rule (3) of Rule 88B of CGST Rules.

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4.2. The learned counsel also pointed out the judgment of the Kerala High Court in ***Rejimon Padickapparambil Alex v. Union of India and Others*** reported in ***2024 (12) TMI 399*** in W.A.No.54 of 2024, dated 26.11.2024, wherein the Division Bench, while considering the aforesaid clarification, has observed as follows:

> *"30. The essence of the above clarification is that the input tax credit (ITC) available in the electronic credit ledger should be considered as a pool of funds designated for different types of taxes, such IGST, CGST and SGST. These accounts represent a wallet with compartments for IGST, CGST, and SGST funds. Therefore, while determining interest under rule 88B of the CGST Rules, the entire wallet has to be taken into consideration, not just individual compartments. If the total balance (combining IGST, CGST, and SGST) falls below the amount of the wrongly availed IGST credit, there is interest liability. If, however, the total wallet balance never dips below this specific amount during the relevant period, there's no interest liability. Similarly, for utilizing the IGST liability, the clarification emphasizes that the eligibility of funds for this payment is based on the total balance in the entire wallet, not just the IGST compartment. In short, the analogy of the above circular is that the GST system treats the electronic credit*

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ledger as a unified resource, and interest is incurred if, collectively, the available funds fall below the amount of wrongly availed credit during the specified period."

4.3. The learned counsel further relies upon the judgment of the Kerala High Court reported in ***2025 (5) TMI 2066*** in the case of ***Manissery Jayachandran v. Union of India and Others***, in W.P.(C) No. 2459 of 2025 decided on 23.01.2025, where the judgment in the ***Regimon Padickapparambil Alex v. Union of India and Others*** was relied upon with regard to Circular No.192/04/2023-GST, stating that the GST system treats the electronic credit ledger as a unified resource and that interest is attracted only if the collectively available funds fall below the amount of wrongly availed credit during the relevant period. According to the learned counsel, the petitioner falls within the category. According to the petitioner, the electronic credit ledger carries a sufficient balance and therefore, the credit availed by the petitioner cannot be questioned.

5. Per contra, the learned counsel appearing for the respondents submitted that the Circular issued by the Government of India is dated 17.07.2023, whereas the impugned orders are dated 23.03.2023 and

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21.03.2023, respectively. Without going into the question as to whether the Circular is prospective in nature or retrospective in nature, the learned counsel submitted that the Circular is only a clarification which enables the Department to assess the liability in the manner prescribed therein. Therefore, the Circular has to be applied with reference to the clarification contained therein and when an order is passed, the respondents are required to take into account the balances under the heads of IGST, CGST and SGST and if, the total balance in the electronic credit ledger is sufficient, the petitioner cannot be called upon to pay interest, unless the requirements contemplated under the Circular are otherwise satisfied.

6. This Court is of the view that the only point that arises for consideration is whether the authority, while passing the impugned orders, has followed the ingredients of Circular No.192/04/2023-GST, dated 17.07.2023, particularly with regard to the total balance available in the electronic credit ledger under the heads of IGST, CGST and SGST.

7. In view of the same, the impugned orders are hereby set aside and the matters are remitted back to the respective authorities for fresh

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consideration. The respondents are directed to pass appropriate orders, after affording an opportunity of personal hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above direction, these Writ Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

28.09.2026

Neutral Citation: Yes/No
AT

To
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