



W.P.No.7643 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.7643 of 2025

and

W.M.P.No.8570 & 41917 of 2025

Tvl. Sri Balajee Udyog,
Represented by its Proprietor Sanjay Mittal
No.15, Mooker Nallamuthu Street, Parrys,
Chennai, Tamil Nadu – 600 001.

... Petitioner

Vs.

1. The Assistant Commissioner (ST)
Broadway Assessment Circle,
Integrated Building Commercial Taxes Department
No.32, Elephant Gate Bridge Road,
Chennai – 600 003.
2. The Deputy Commissioner (ST) (FAC)
GST Appeal, Chennai – I,
C.T.Main Building, 2nd Floor,
Greens Road, Chennai – 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned Order in Appeal bearing reference number AP/GST/4237/2024 dated 27.01.2025 issued by the Second Respondent conforming the Order of GST cancellation bearing reference No.ZA3311243442317 dated 29.11.2024 passed by the first respondent, and quash the same as the same being arbitrary, passed in violation of the principles of natural justice and subsequently directing



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the first Respondent to revoke the cancellation of the Petitioner's registration and thus render justice.

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For Petitioner : Mrs.R.Hemalatha
for Mr.Venkatakrisnan A.M.
For Respondents : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

In this Writ Petition, the Petitioner is before this Court challenging the order dated 27.01.2025 passed in Appeal No.AP/GST/4237/2024, whereby, the petitioner's appeal against the order dated 29.11.2024 has been rejected. Earlier, by the order dated 29.11.2024, the petitioner's GST registration was cancelled.

2. The reasons given for cancellation of the petitioner's GST registration in the order dated 29.11.2024 are as follows:-

"The relevant facts mentioned in the reply by the petitioner are partially and certain vita details have been conveniently omitted. The Authorized Representative has submitted documents (soft copy-pen drive) during personal hearing but has not filed documents regarding supplier wise payment details with connected expenses.

On verification of their sales invoices, it was found that in many of the sales invoices and e-way bill, they have not mentioned the vehicle numbers transporting the goods, it was mentioned as TMYCYCLE/TRICYCLE without any motor vehicle Registration and part B of the EWB not update which is suspicious.

PROPER OFFICER DECISION:



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This order is issued without prejudice to any other action that may be taken against the taxpayer in relation to the impugned matter under the TNGST Act, 2017 and/or any other GST law for the time being in force in India.

Ample opportunities have been provided to the taxpayer regarding the above proposals. The following orders were passed after careful perusal of the available documents to finalize the GST registration and consideration of the taxpayer's reply letter uploaded on the GSTIN portal.

I have carefully gone through the Show Cause Notice dt. 11.11.2024, the written replies vide letter dt. 21.11.2024 along with the documents (soft copy-pen drive) submitted by the taxpayer, the relied upon data/documents made available during the given point of time along with the statutory provisions of each GST Act and Rules. I have given my earnest consideration to the facts and circumstances of the case, evidence available on record and written contents of the SCN. The issues to be decided in this case are: -

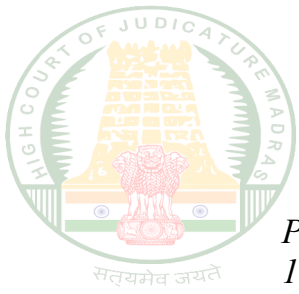
MISUSE OF INPUT TAX CREDIT (INWARD SUPPLIES)

The registered person (Tvl. Sri Balajee Udyog) has filed GSTR-3B for the period of 2022-23 and has taken and utilized ITC. As per the table shown above where Input Tax Credit has been wrongly availed or utilized by the Tax Payer under SGST and CGST Act as mentioned above, it was contravention to the provisions of Act under section 16 of the TNGST Act, 2017.

Without actual physical movement of goods or genuineness of transaction, the input tax credit cannot be availed. The taxpayer is duty bound to prove beyond any reasonable doubt and establish that actual transaction took place and merely furnishing the details of copy of tax invoices, ledger account and Bank statement is not sufficient.

The actual physical movement of goods and genuineness of transportation by furnishing details as referred above and in the event such details are not being furnished, the benefit of input tax credit cannot be accorded.

In support, the judgment of Hon'ble the Apex Court in the case of State of Karnataka Vs. M/s Ecom Gill Coffee Trading



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Private Limited (Civil Appeal No. 230 of 2023, decided on 13.03.2023) as well as Patna High Court in M/s Aastha Enterprises Vs. State of Bihar (Civil Writ Jurisdiction Case No. 10395 of 2023) decided on 18.8.2023 in which it has been held that the burden to prove the actual physical movement of the goods is upon the purchasing dealer for availment of input tax credit.

The benefit of Input Tax Credit under the tax statute can be availed only on fulfilment of certain conditions or restrictions as stipulated under the each Act. In the event of breach of any of the conditions as enumerated under the each Act, no benefit can be conferred to the taxpayer.

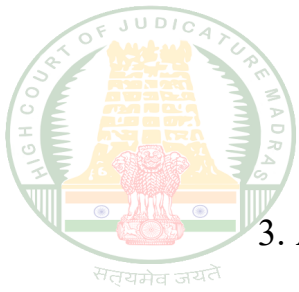
The taxpayer failed to prove and establish the actual physical movement of the goods and the genuine nature of the transaction. It is found that taxpayers were issuing tax invoices without any actual supply of goods or services or both. The taxpayer has not fulfilled the eligibility and conditions for taking Input Tax Credit as per Section 16(2)(b) of the Act. Taxpayers have thus obtained registration under the Act by means of fraud, wilful misstatement or suppression of facts and contravened the provisions of the section 29 of the TN GST Act read with rule 21 of the TN GST Rules 2017.

The taxpayer failed to corroborate his explanation with Proper documents even in peng hearing. The misuse of Input Tax Credit has been confirmed based on a proper show cause to issued to the taxpayer.

As per the provision of section 155 the burden of proving the correctness of ITC remains upon the taxpayer claiming such ITC. Such a burden of proof cannot get shifted on the revenue.

In view of the above facts, the contention is not sustainable and it is overruled. Therefore the above proposal is hereby confirmed.

The retrospective cancellation of the registration certificate is effective date: 05.04.2022.



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3. Aggrieved by the aforesaid order, the petitioner filed an appeal before the second respondent in AP/GST/4237/2024, which culminated in the impugned order, whereby the petitioner's appeal has been rejected with the following observation:-

“ I have heard the arguments put forth before me by both the sides and after examining the documents and contentions raised by the appellant conclude the dispute by passing the following orders

The primary issue in the present appeal is whether the registration certificate cancelled is based on sound grounds or not?

The following are the grounds of appeal on the basis of various points raised and are discussed as below:

POINT. 1

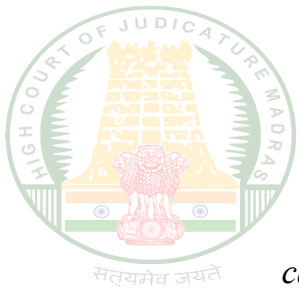
Appellant's submission

That, first and foremost it is to submitted that the above referred tabular figures as relied by the Assistant Commissioner is completely false and bogus and not actual as per the records and can be verified as the same is readily available in to the portal.

Observations

The appellant contested that the amount of ITC utilized is only Rs.18,62,11,949-00 and not Rs.24,20,50,026-00. By presuming the version is correct, the quantum of availment of ITC is very huge and the fact of the transportation has to be discussed in detail in the following paragraphs.

That, as per the Assistant Commissioner the total ITC Adjusted by the Appellant during the period of 2022-23 to 2024-25 was Rs. 24,20,50026/- whereas as a matter of fact the actual figure of ITC which has been utilized by the Appellant during the period of 2022-23 to 2024-25 is Z 18,62,11,749.13.



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That as shown above the Assistant Commissioner has excess calculated utilization of the ITC for the period of 2022-23 to 2024-25 to the tune of Rs. 5,58,38,276.87.

That the above mistake in calculation by the Assistant Commissioner prima facie proves that the order of cancellation of the registration is erroneous and not correct as per the true facts of the case.

Further, the Appellant hereby would like to draw the attention of the Appellate Authority to FORM GST REG-19 which is the Cancellation Order bearing Ref. No. ZA3311243442313 dated 29.11.2024, which says as follows:

Now, in response to the above remarks of the Assistant Commissioner. It is hereby submitted that the Appellant had duly supplied all the Relevant documents as follows:

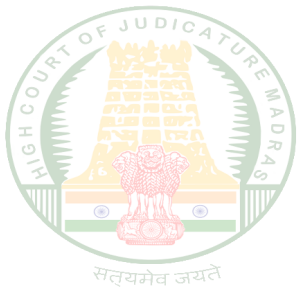
Facts Relating to Eligibility and Claim of ITC:

The appellants had contended relating to the above issue as That, it is vehemently submitted that the Appellant had duly supplied all the documents to corroborate his claims of eligible ITC to the Assistant Commissioner under the burden casted upon him under section 155 of the GST Act, to prove the eligibility of the ITC as availed and utilized by him.

In reply to the above remarks the Appellant respectfully submits that, to the best of their understanding, the documents listed above exceed the necessary requirements to substantiate the eligibility for Input Tax Credit (ITC). However, it is pertinent to note that none of these documents were verified by the Assistant Commissioner; as evidenced by the cancellation order, which lacks any discussion or findings based on the documents and information available in the GST portal. Whereas the Assistant Commissioner has calculated the total utilization of the ITC during the FY-2022-2023 to 2024-225 to the tune of Rs.5,58,38,276.87.

Observations

The contention of the appellant was carefully gone through and considering the written arguments of the Departmental representative, the following observation are made by concluding the issue.



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The place of business was visited by the Adjudicating authority on 13.11.2024 based on the complaint received relating to the Appellant Tvl. Sri Balaji Udyog (GSTN 33AADPM1774EIZO) and Tvl. Gaurav Metal (GSTN 33AAFFG4863JIZA). The principal place of business of above two taxable persons were the same namely No.15, Mooker Nallamuthu street, Parrys, Chennai 600001, it was also ascertained that they had no other additional place of business premises. The place of business at the above mentioned address was locked at the time of visit by the Adjudicating authority.

From the above, it is clear that in the registered place of the appellant there is one more registered person is doing in the same place and deals with the same commodity. When it was observed by the respondent officer, even the place of business of the appellant is sufficient enough to have the space to run the business of the same kind. It is quite impossible to keep the stock of the goods of the two separate concern in the same and it is not at all possible to identify the stock of goods relating to the tax payers separately. And there is every possibility of manipulating the stock with each other in order to substantiate the clandestine business activity.

That, the Assistant Commissioner of State Tax, Broadway Assessment Circle issued an SCN bearing Ref. No: ZA331124068624P Date: 14/11/2024 requiring to show cause for the grounds as follows:

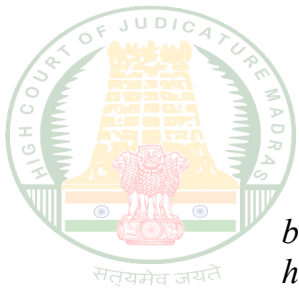
The Appellant filed their reply to the above SCN in writing on 20.11.2024 and appear the personal hearing on dated 20.11.2024.

POINT 2

That, during the course of hearing the Appellant has not been allowed to clarify his genuine business transaction based on documentary evidence as referred above which violates his right of opportunity of being heard in true sense which has already been settled by the courts of law.

Observations

The appellant had failed to establish in what way he had not been allowe to clarify his genuine business. Nothing prevents him from producing documentary evidence as a proof of geniuses of the



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business transaction. Even if he was not allowed to do so, he should have registered his objection in writing either at the time of personal hearing or at least afterwards. Without doing so, merely stating that he was not allowed to clarify the genuine, has no basis on face of records.

POINT:3

In addition to the issuance of the SCN, the Department put the Registration of the Appellant under suspension with immediate effect.

The Appellant filed their reply to the above SCN in writing on 20.11.2024 and appear the personal hearing on dated 20.11.2024.

After receiving the reply and taking the P.H., the Department issued a Summons to the Appellant u/s 70(1) dated 21.11.2022 whereas as a matter of fact the same is digitally signed on 22.11.2024.

That the grounds on which the Department has cancelled the GSTIN, as it has been stated in the said Order are as follows:

a) The Department received a Complaint petition relating to Tvl. Gaurav Metal (GSTIN 33AAFFG4863JIZA), and Sri Balajee Udyog" (GSTIN 33AADPM1774E1Z0) to the effect that both of the units have same principal place of business at No.15, Mooker Nallamuthu Street, Parrys, Chennai-600001. And the order has been passed by the officer in the interest of safeguarding Government Revenue.

b) In the recital part of the Order, it has been stated that: Whereas, in input tax credit verification of the taxpayer, their ITC is tabulated, whereas ITC is received as per invoices and e-way- bills generated by the taxpayer, but the goods are not actually received."

c) "The Authorized Representative has submitted documents (soft copy-pen drive) during personal hearing but has not filed Documents regarding supplier wise payment details with connected expenses.



POINT:4

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On verification of their sales invoices, it was found that in many of the sales invoices and e-way bill, they have not mentioned the vehicle numbers transporting the goods, it was mentioned as TMYCYCLE/TRICYCLE without any motor vehicle Registration and part B of the EWB not update which is suspicious"

Following the above statement the Department wrote the final decision part of the order as follows:

On verification of their sales invoices, it was found that in many of the sales invoices and e- way bill, they have not mentioned the vehicle numbers transporting the goods, it was mentioned as TMYCYCLE/TRICYCLE without any motor vehicle Registration and part B of the EWB not update which is suspicious.

Observations

From the details available in the monthly returns and in the GST portal, the appellant used engage in huge quantity of goods against which he had claimed and availed ITC of about Rs. 18.62.11,749-00 otherwise the volume of goods received is enormous. Thus is quite unimaginable that those goods were transported in a non-motorized conveyance, otherwise it has to be presumed that those goods might have been transported in hundreds of non-motorized conveyance at a time or in a day which is quite not possible and unimaginable. At any stretch of imagination the contention of the appellant is found to be non-acceptable.

Further, the departmental representative argued by relying on the judgment of Hon'ble the Apex court in the case of State of Karnataka was as M/s. Ecom Gill Coffee Trading Private Limited (Civil Appeal Number 230 of 2023 dated: 13.03.2023. wherein it has been categorically stated that mere production of e-way bill, invoice are sufficient enough to claim ITC, and the incidental expenses such as freight charges. loading and unloading charges, way bills etc are essential to prove the genuineness of the claim of ITC, which the appellant failed to establish even at the stage of hearing.

As the appellant had failed to establish the movement/ receipt of goods physically as stipulated under sub-section 2(b) of Section 16 of the Act, he failed to establish the genuines of claim of



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ITC, his registration certificate under the GST rules, was cancelled as dealer failed to establish the receipt of goods physically and availed the input Tax credit in violation of the provisions of the Section 16 or rules made thereunder as stipulated in Rule 21 (e) of the GST Rules.

In the above circumstances, I find that there is not valid grounds and the petition filed by the appellant does not deserve to be considered. Hence the appeal petition is hereby dismissed.

Thus the appeal stands DISMISSED.”

4. On specific enquiry as to how the same premises was used for carrying on business in the name of the petitioner partnership firm and also in the name of Tvl.Gaurav Metal (GSTN33AAFFG4863J1ZA), it was stated that the same was allowed to be carried out.

5. The learned counsel for the petitioner submits that Tvl.Gaurav Metal was a partnership firm, in which the proprietor of the petitioner firm was a partner. It is further submitted that the said firm was carrying on business even prior to the implementation of the respective GST Enactments with effect from 01.07.2017, and that it was registered under the Tamil Nadu Value Added Tax Act, 2006. Thus, the business was carried on by the said partnership firm, namely, Tvl.Gaurav Metal.

6. The learned counsel for the petitioner further submits that the GST registration of Tvl. Gaurav Metal was cancelled on 31.03.2023, based on an
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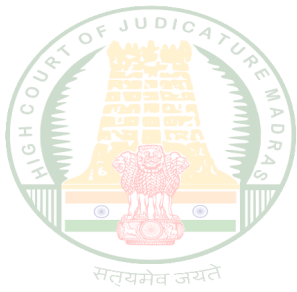
application filed by the petitioner.

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7. The learned counsel for the petitioner further submits that the petitioner is in possession of all documents to substantiate that the petitioner had received goods from the suppliers and had supplied the same to its customers on payment of GST. Therefore, the impugned order rejecting the petitioner's appeal against the order dated 29.11.2024, passed by the first respondent, is without any merits and deserves to be interfered with.

8. On the other hand, the learned Government Advocate for the respondents submits that the order of the first respondent dated 29.11.2024, as well as the impugned order dated 27.01.2025 passed by the second respondent, are well-reasoned and do not merit any interference.

9. It is submitted by the learned Government Advocate for the respondents that the petitioner has availed illegitimate Input Tax Credit on the strength of invoices allegedly issued by M/s. Shree Padmavathi Metal and Alloys and that proceedings were initiated against the said M/s. Shree Padmavathi Metal and Alloys under Sections 74 and 74A of the respective GST Enactments read with Section 122 (1) (viii) of the respective GST Enactments.



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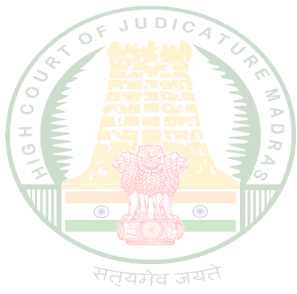
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10. It is further submitted by the learned Government Advocate for the respondents that assessment orders have been passed on 11.08.2025 for the tax periods 2019-2020 and 2020-2021. It is also submitted that proceedings for other tax periods are still pending against the said suppliers.

11. The facts on record reveal that the petitioner obtained GST registration only on 05.04.2022. On the said date, there was already another GST registration for the same premises standing in the name of a partnership firm, namely Tvl.Gaurau Metal.

12. Thus, it is evident that the transactions of the said firm were intended to camouflage the transactions of the petitioner's firm, with a view to pass on illegitimate Input Tax Credit availed on the strength of invoices said to have been raised on the petitioner by M/s. Shree Padmavathi Metal and Alloys.

13. There is no justification for obtaining registration for the same premises in the name of the petitioner's firm and in the name of the partnership firm, namely Tvl. Gaurau Metal. Therefore, the impugned order passed by the second respondent / Appellate Authority, affirming the order of the first respondent, does not merit any interference.



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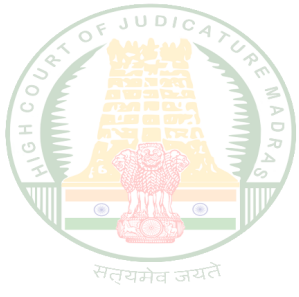
14. Therefore, the writ petition is liable to be dismissed and is accordingly dismissed with liberty to respondents to take steps to recover the tax and penalty which were purportedly passed on to the customer. No costs. Connected Writ Miscellaneous Petitions are closed.

21.01.2026

Neutral Citation: Yes / No
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