

W.P.No.1190 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.1190 of 2026

and

W.M.P.Nos.1393 and 1395 of 2026

Tvl.Sri Venkateswara Sago Factory,
Represented by its Partner
S.Thiyagu.

... Petitioner

Vs.

The State Tax Officer,
Attur Town Circle,
Attur, Salem.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the files of the respondent pertaining to GSTIN: 33ACXFS1304A1ZH/2020-21 dated 14.02.2025, to quash the same as illegal and consequently direct the respondent to consider the matter afresh providing opportunity of hearing and dispose the case on merits.

For Petitioner : Mr.S.Rajesh

For Respondent : Mrs.K.Vasanthamala
Government Advocate



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ORDER

Mrs.K.Vasanthamala, 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 Petitioner is before this Court against the impugned order dated 14.02.2025, which was preceded by a Show Cause Notice in GST DRC-01 dated 25.11.2024 to which the Petitioner has replied on 04.12.2024. The content of the reply has also been extracted in the impugned order.

4. As far as reversal of input tax credit on Issue No.1 had exempted supplies etc., was concerned, the Petitioner has accepted the liability and paid the tax and therefore proposal contained in GST DRC – 01 dated 25.11.2024 has been dropped. As far as the demand proposed insofar as the ineligible input tax credit under Section 17(5) of the respective GST enactments are concerned, the content of the Petitioner are as under:-



“For that we did not take ITC for Motor Vehicles, Sand, Works Contracts and Hardware. And also without electrical goods and machinery spares we cannot manufacture the sago and sago products.”

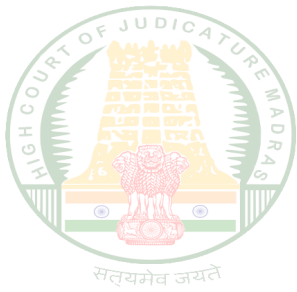
5. The learned Government Advocate for the Respondent submits that the Respondent has however concluded as under:-

Assessing Officers Notings:

On verification of the taxpayer reply it was stated that, For that we did not take ITC for Motor Vehicles, Sand and Hardware. And also without electrical goods and Machinery spares we cannot manufacture the sago and sago products. Hence the question of Excess availment of ITC is not applicable, as we have not used any excess ITC credits.

On careful verification of the reply filed by the tax payer, it is ascertained that the tax payer availed input tax credit which not related to the business purpose, materials related to capital goods Input used to make an exempt supply or for manufacturing supplies some of which were used for non-business or personal purposes, hence reply filed by the taxpayer for the above defect was verified, and found not satisfy, here with I confirmed the demand for the above defect and withstand the tax amount along with penalty and Interest.

Particulars	IGST	CGST	SGST
Tax	0	3,63,770	3,63,770
Interest	0	2,50,433	2,50,433
Penalty	0	36,377	36,377
Total	0	6,50,580	6,50,580



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6. *Prima facie*, there are indications that the Petitioner's above reply has not been considered.

7. At this stage, the learned counsel for the Petitioner submits that the Petitioner is willing to pre-deposit 25% of the disputed tax as a condition for *denovo* adjudication.

8. Under similar circumstances, Orders have been quashed and cases have been remitted back to the Respondent to pass a fresh order on terms subject to such Assessee depositing 25% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

9. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 25% of the disputed tax confirmed vide impugned order in cash or from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.



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10. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 25.11.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 14.02.2025 as an addendum to the Show Cause Notice dated 25.11.2024.

11. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

12. It is made clear that bank attachment shall be lifted subject to the Petitioner depositing 25% of the disputed tax as ordered above and the Petitioner not being in arrears of any other amount for any other tax period barring the amount demanded under the impugned Order.

13. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to



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recover the tax in accordance with law as if this Writ Petition was dismissed
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14. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

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

21.01.2026

Neutral Citation: Yes / No
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To:

The State Tax Officer,
Attur Town Circle,
Attur, Salem.



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C.SARAVANAN, J.

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