

W.P.(MD)No.3049 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.01.2026

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THE HONOURABLE **Mr. JUSTICE KRISHNAN RAMASAMY**

W.P.(MD)No.3049 of 2025 &
W.M.P(MD)Nos.2123 & 12450 of 2025

Periyasamy Karthikeyan

...Petitioner

vs.

The State Tax Officer,
Karur-4 Assessment Circle,
Karur.

...Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of assessment order bearing reference number GSTIN: 33DIBPK9402G1ZJ/2018-2019, dated 09.12.2024 passed by the respondent herein and quash the same and direct the respondent herein to allow the petitioner to rectify the GSTR-3B returns filed for the year 2018-2019 in order to claim input tax credit under correct heads.

For Petitioner : Mrs.S.P.Sri Harini

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader



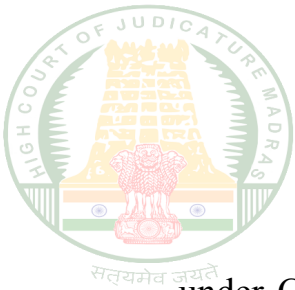
W.P.(MD)No.3049 of 2025

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ORDER

This Writ Petition has been filed challenging the impugned assessment order bearing reference number GSTIN:33DIBPK9402G1ZJ/2018-2019, dated 09.12.2024, passed by the respondent and to direct the respondent to allow the petitioner to rectify GSTR-3B returns filed for the year 2018-2019 in order to claim input tax credit under correct heads.

2. The learned counsel appearing for the petitioner would submit that, in the present case, the petitioner has wrongly claimed Input Tax Credit (ITC) for the financial year 2018-19 to the extent of Rs.1,94,77,496/- under Central Goods and Services Tax (CGST) and State Goods and Services Tax (SGST) instead of claiming it under the head Integrated Goods and Services Tax (IGST). She would submit that after adjusting CGST and SGST, whatever amount wrongly claimed would be excess amount, the same can be utilized in terms of Section 49 (5) of the Central Goods and Services Tax Act, 2017 r/w Rule 88 of the Central Goods and Services Tax Rules, 2017. She would submit that an error occurred at the time of filing GSTR-3B and that while filing annual returns in GSTR-9, the petitioner has clearly stated about the wrongful availing ITC under CGST and SGST instead of IGST and short payment on IGST as well. While filing GSTR-9C - Part B, Certificate has been obtained from the Chartered Accountant for wrongly availing ITC



W.P.(MD)No.3049 of 2025

WEB COPY

under CGST and SGST to the extent of Rs.1,94,77,496/- and the said error was also rectified by filing GSTR-9C. While so, the respondent has issued Form GST ASMT - 10 on 02.12.2021 and the petitioner has also filed reply to the same. Upon consideration of the petitioner's reply, the respondent dropped the proceedings and issued ASMT - 12 on 18.03.2022. Therefore, she would submit that, in terms of provisions of Section 61 (2) of the Central Goods and Services Tax Act, 2017, once ASMT - 12 is issued, no further proceedings can be initiated. However, contrary to the same, DRC 01A and DRC 01 have been issued with regard to the same issue. Reply was also filed by the petitioner, however, without considering the same, the respondent has mechanically passed the impugned order. Hence, the Writ Petition.

3. The learned Additional Government Advocate appearing for the respondent would submit that the petitioner's reply was to the effect that only due to the clerical error, ITC was claimed under CGST and SGST instead of IGST and that there is no revenue loss to the Government. According to him, the reply is not acceptable for the reason that the petitioner has claimed excess ITC under CGST and SGST every month (April 2018 to March 2019) and excess claim of CGST and SGST leads to excess adjustment of CGST and SGST towards tax due and cash payments towards CGST and SGST will

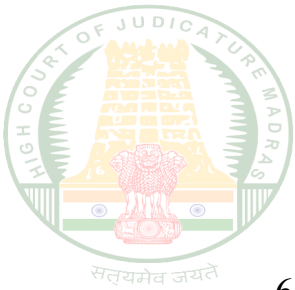


W.P.(MD)No.3049 of 2025

be reduced, which leads to loss of revenue to the Government. He would further submit that on scrutiny of GSTR-9C, the Officer arrived at the conclusion that the petitioner made excess claim of ITC. Hence, it is evident that the petitioner wilfully not reversed the excess ITC of CGST and SGST. Hence, the impugned order. He therefore prayed for dismissal of this Writ Petition.

4. I have given due consideration to the submissions made on either sides.

5. In the present case, the issue is pertaining to the wrong entries that were made while filing GSTR-3B. The petitioner had claimed ITC to the extent of Rs.1,94,77,496/- under CGST and SGST column instead of IGST column, while filing GSTR-3B for the financial year 2018-19. While filing GSTR-9, the wrongful claim of ITC was clearly stated and the said error was rectified by filing GSTR-9C, in accordance with law. On this aspect, the respondent has initially issued Form GST ASMT - 10 on 02.12.2021. Subsequently, after accepting the reply submitted by the petitioner, the respondent has issued ASMT - 12 on 18.03.2022 and dropped proceedings in this regard.



W.P.(MD)No.3049 of 2025

WEB COPY

6. At this juncture, it would be apposite to extract the provisions of Section 61 (2) of the Central Goods and Services Tax Act, 2017, hereunder:-

"In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard."

7. As per the above provision, once the explanation is accepted, the registered person should be informed and no further action should be taken. However, in the present case, DRC 01A and DRC 01 were issued for the same reason for which ASMT - 10 was issued. Since there is a statutory bar under Section 61 (2) of the Central Goods and Services Tax Act, 2017, the respondent has no jurisdiction to issue DRC 01A and DRC 01, for the same issue, for which already ASMT - 12 was issued and proceedings were dropped. Therefore, on this aspect, the impugned order is not sustainable in law.

8. As already stated, though the petitioner made wrong entries while filing GSTR-3B for the financial year 2018-19, the said error was rectified by filing Form GSTR-9C. Once the error is rectified, the question of short payment or excess claim will not come into picture. If the petitioner failed to file GSTR-9C, the respondent is justified in issuing DRC 01A and DRC 01.



W.P.(MD)No.3049 of 2025

However, such is not the case. Therefore, on this aspect also the impugned order is not sustainable.

9. The next contention of the respondent is that excess claim of CGST and SGST leads to excess adjustment of CGST and SGST towards tax due and cash payments towards CGST and SGST will be reduced and the same will result in loss of revenue to the Government. As far as this aspect is concerned, as stated above, the petitioner had erroneously claimed ITC under the head CGST and SGST instead of claiming it under the head IGST, due to which, there was excess claim of ITC under CGST and SGST. As far as CGST and SGST are concerned, there were no dues with regard to the same. Only IGST due was wrongly mentioned as CGST and SGST dues. Further, the question of revenue loss would not arise since excess amount of ITC was available with the Government. In fact, it is also cash payment in advance by the petitioner and the same is yet to be availed. Revenue loss will come into picture only if the petitioner had availed ITC, without any ITC actually available. Hence, the said contention is not sustainable and the same is rejected.

10. Another contention put forth by the respondent is that the petitioner failed to reverse excess ITC on CGST and SGST. Since the



W.P.(MD)No.3049 of 2025

WEB COPY

petitioner made excess claim of ITC under CGST and SGST instead of IGST, GSTR-9 and GSTR-9C were filed and the said error was rectified. However, the same was misconstrued as if there was revenue loss to the Government. If the petitioner, without any ITC available, had claimed ITC under CGST and SGST and utilized the same for adjusting the liability of CGST and SGST, in that situation, there would be force in the submissions of the respondent. However, that is not the case here, as the ITC claimed under CGST and SGST is only an excess claim, instead of claiming it under IGST. For all the above reasons, the impugned order is not sustainable in law and the same is liable to be quashed.

11. Accordingly, the impugned assessment order of the respondent in GSTIN:33DIBPK9402G1ZJ/2018-2019, dated 09.12.2024 is quashed and this Writ Petition stands allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

06.01.2026
(2/2)

Speaking / Non-speaking order

Index : Yes/No

NCC : Yes/No

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To

The State Tax Officer,
Karur-4 Assessment Circle, Karur.



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W.P.(MD)No.3049 of 2025

KRISHNAN RAMASAMY, J.

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W.P.(MD)No.3049 of 2025

**06.01.2026
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