

W.P.Nos.3457 of 2022 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2025

CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N. SENTHILKUMAR**

W.P.Nos.3457, 3465 & 34753 of 2022

and

**W.P.Nos.1388, 11135, 13164, 17375, 18160,
18163, 20172, 20180, 28013 & 29480 of 2023**

and

**W.P.Nos.2211, 2212, 4605, 4608, 6359,
6362, 6654, 6769, 6785, 7642, 8438, 12319,
12323, 15134 & 15222 of 2024**

and

W.P.No.19781 of 2025

and

**W.P.(MD)Nos.4452, 4453, 4454, 19540,
19541, 20922 & 21039 of 2023**

and

WMP.No,34171 of 2022

and

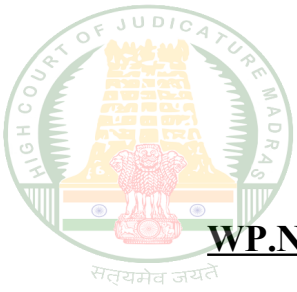
**WMP.Nos.10998, 12911, 16518, 17357,
27526, 27528 & 29103 of 2023**

and

**WMP.Nos.5046, 5045, 7087, 7542,
7563, 8554, 13426, 16454, 16457,
16565 & 16564 of 2024**

and

**WMP.(MD)Nos.4196, 4197, 4198, 4199,
16155, 16156, 17326 & 17457 of 2023**



W.P.Nos.3457 of 2022 etc. batch

WP.No.3457 of 2022

WEB COM

M/s.R.K.Enterprises

(Represented by its Proprietor Shri.K.Kumar)

No.1, GKS Nagar,

Hosur 635 110.

.. Petitioner

VS

1.Assistant Commissioner of Central Taxes

II Division, SIPCOT,

Hosur 635 126.

2.Union of India,

Represented by its Secretary

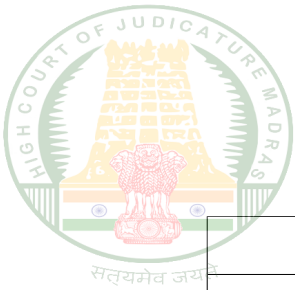
Department of Revenue, Ministry of Finance,

North Block, New Delhi 110 001.

.. Respondents

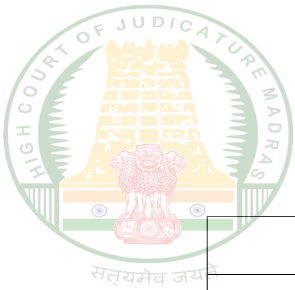
Prayer in WP.No.3457 of 2022 : PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Declaration that the provisions of Section 16(4) of the CGST Act shall be read down to the effect that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both, in any return filed under Section 39 of the Act, later than the return under section 39 of the Act, for the month of September following the end of the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

| <i>Case Nos.</i> | <i>For Petitioners</i> | <i>For Respondents</i> |
|-------------------------------|-------------------------------|---|
| WP.Nos.3457 & 3465 of 2022 | Mr.G.Natarajan | Mr.S.Gurumoorthy, Senior Panel Counsel |



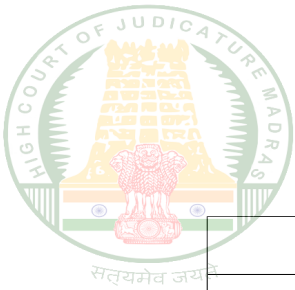
W.P.Nos.3457 of 2022 etc. batch

| Case Nos. | For Petitioners | For Respondents |
|------------------------------|------------------------|--|
| WP.No.34753 of 2022 | Mr.S.Rajasekar | Mr.T.Ramesh Kutty, Senior Standing Counsel (for R1 & R2) Mr.C.Harsha Raj, Special Government Pleader (for R3 to R5) |
| WP.No.1388 of 2023 | Mr.G.Derrick Sam | Mr.Rajnish Pathiyil, Senior Standing Counsel (for R1 & R2) Mr.C.Harsha Raj, Special Government Pleader (for R3) |
| WP.No.11135 of 2022 | Mr.G.Natarajan | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R2) Mr.C.Harsha Raj, Special Government Pleader (for R1 & R3) |
| WP.No.13164 of 2023 | Mr.Abhishek Rastogi | A Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1, R3 & R4) Mr.C.Harsha Raj, Special Government Pleader (for R2) |
| WP.No.17375 of 2023 | Mr.V.Srikanth | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1) Mr.C.Harsha Raj, Special Government Pleader (for R2 & R3) |
| WP.Nos.18160 & 18163 of 2023 | Mr.G.Derrick Sam | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1 & R3) Mr.S.R.Sundar, (for R2) Senior Standing Counsel |



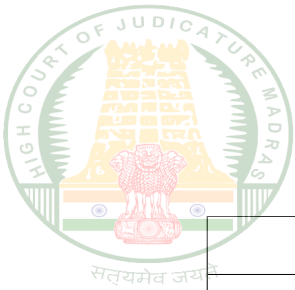
W.P.Nos.3457 of 2022 etc. batch

| Case Nos. | For Petitioners | For Respondents |
|------------------------------|--------------------------|--|
| WP.Nos.20172 & 20180 of 2023 | Mr.Sethu Prabakaran | Mrs.Revathi Manivannan Senior Standing Counsel (for R1) Mr.V.Prashanth Kiran, Government Advocate (for R2) |
| WP.No.28013 of 2023 | Mr.G.Natarajan | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R2) Mr.C.Harsha Raj, Special Government Pleader (for R1 & R3) |
| WP.No.29480 of 2023 | Mr.S.Baskaran | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1 to R3) Mr.V.Prashanth Kiran, Government Advocate (for R4 to R6) |
| WP.Nos.2211 & 2212 of 2024 | Mr.Manoharan Sundaram | Mr.M.Santhanaraman, Senior Standing Counsel (for R1, R2, R5 & R6) Mr.V.Prashanth Kiran, Government Advocate (for R3 & R4) |
| WP.No.4605 of 2024 | Mr.K.Vaitheeswaran | Mrs.Revathi Manivannan, Senior Standing Counsel |
| WP.No.4608 of 2024 | Mr.K.Vaitheeswaran | Mrs.Revathi Manivannan, Senior Standing Counsel |
| WP.Nos.6359 & 6362 of 2024 | Ms.Radhika Chandrasekhar | Mrs.Revathi Manivannan Senior Standing Counsel |
| WP.No.6654 of 2024 | Mr.Manoharan Sundaram | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1 & R2) Mr.V.Prashanth Kiran, |



W.P.Nos.3457 of 2022 etc. batch

| Case Nos. | For Petitioners | For Respondents |
|---------------------------------|------------------------------|---|
| | | Government Advocate (for R3 to R6) |
| WP.No.6769 of 2024 | Mr.T.R.Ramesh | Mr.Rajnish Pathiyil, Senior Standing Counsel (for R1 & R3) Mr.V.Prashanth Kiran, Government Advocate (for R2 & R4) |
| WP.No.6785 of 2024 | Mr.T.V.Lakshmanan | Mr.Rajesh Vivekanandan, Deputy Solicitor General |
| WP.No.7642 of 2024 | Mr.S.Rajasekar | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1) Mr.T.Ramesh Kutty, Senior Standing Counsel (for R2 to R4) |
| WP.No.8438 of 2024 | Mrs.Radhika Chandrasekhar | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1 & R2) Mr.V.Prashanth Kiran, Government Advocate (for R3 & R4) |
| WP.Nos.12319 & 12323 of 2024 | Ms.S.Sriniranjani | Mr.A.P.Srinivas, Senior Standing Counsel |
| WP.No.15134 of 2024 | Mr.G.Natarajan | Mrs.Amirtha Poonkodi Dinakaran (for R1 & R3) Government Advocate Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R2) |
| WP.No.15222 of 2024 | Mr.Aadhishankaran | Mrs.Amirtha Poonkodi Dinakaran (for R1) Government Advocate Mr.Rajesh Vivekanandan, Deputy Solicitor General |



W.P.Nos.3457 of 2022 etc. batch

| Case Nos. | For Petitioners | For Respondents |
|--|---------------------------|---|
| | | (for R2 & R3) |
| WP.No.19781 of 2025 | Mr.Sethu Prabakaran. R | Dr.K.Kannan (for R1) Senior Panel Counsel Mr.C.Harsha Raj, Special Government Pleader (for R2 & R3) |
| WP(MD)Nos.4452, 4453 & 4454 of 2023 | Mr.G.Natarajan | Ms.Amirtha Poonkodi Dinakaran (for R1 & R3) Government Advocate Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R2) |
| WP(MD)Nos.19540 & 19541 of 2023 | Mr.S.Karunakar | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1 & R2) Ms.Amirtha Poonkodi Dinakaran, Government Advocate (for R3 & R4) |
| WP(MD)No.20922 of 2023 | Mr.S.Karunakar | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1 & R2) Ms.Amirtha Poonkodi Dinakaran, Government Advocate (for R3 & R4) |
| WP(MD)No.21039 of 2023 | Mr.S.Karunakar | Mr.Rajesh Vivekanandan, Deputy Solicitor General (for R1 & R2) Ms.Amirtha Poonkodi Dinakaran, Government Advocate (for R3 & R4) |



W.P.Nos.3457 of 2022 etc. batch

COMMON ORDER

WEB COPY *(Order of the Court was made by Dr.ANITA SUMANTH.,J)*

This is a batch of 36 Writ Petitions, comprising two sets. W.P.Nos.34753 & 3457 of 2022, W.P.Nos.1388, 13164, 17375, 20172, 20180, 11135 & 28013 of 2023 & WP(MD)No.21039 of 2023, W.P.Nos.8438, 2211, 2212 & 6359 of 2024, W.P.(MD)Nos.4452, 19540, 19541 & 20922 of 2023 & W.P.No.18160 of 2023 challenge Section 16(2)(c) of Central Goods and Service Tax Act, 2017 (in short 'CGST Act'). W.P.Nos.4605, 12319, 6654, 6769 & 6785 of 2024 and W.P.No.19781 of 2025 & W.P.Nos.15134 & 15222 of 2024 seek a declaration to the effect that Section 16(4) of the CGST Act is unconstitutional. Likewise W.P.No.7642 of 2024 seeks a declaration that Rule 61(5) of the Central Goods and Service Tax Rules, 2017 (in short 'CGST Rules') & W.P.No.29480 of 2023 seeks a declaration that Section 16(2)(c) of the CGST Act are ultra vires the Constitution (hereinafter referred to as first set).

2.W.P.Nos.12323 of 2024, 6362 & 4608 of 2024, 18163 of 2023, 3465 of 2022 & WP(MD)Nos.4453 & 4454 of 2023 challenge show cause notices/assessment orders (hereinafter referred to as second set).

3.As far as first set of writ petitions seeking Writ of Declaration



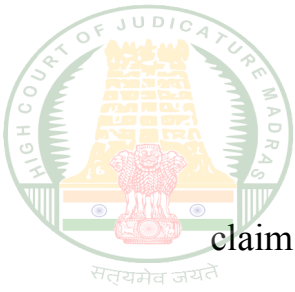
W.P.Nos.3457 of 2022 etc. batch

are concerned, learned counsel for the petitioners seek permission to withdraw the same. Some petitioners have filed memos to this effect and some others have made an endorsement.

4. Recording the memos filed / endorsements made, W.P.Nos.34753 & 3457 of 2022, W.P.Nos.1388, 13164, 17375, 20172, 20180, 11135 & 28013 of 2023 & WP(MD)No.21039 of 2023 and W.P.Nos.8438, 2211, 2212 & 6359 of 2024 and W.P.(MD)Nos.4452 & 19540, 19541 & 20922 of 2023, W.P.No.18160 of 2023 of Section 16(2)(c) of CGST Act and W.P.Nos.4605, 12319, 6654, 6769 & 6785 of 2024 and W.P.No.19781 of 2025 & W.P.Nos.15134 & 15222 of 2024 and W.P.Nos.7642 of 2024 & 29480 of 2023 are dismissed as withdrawn.

5. As far as second set of writ petitions seeking Writ of Certiorari are concerned, the same are liable to be allowed, in light of Section 16(5) of the Goods and Services Tax Act, 2017, introduced vide Section 118 of Finance Act, 2024.

6. Learned counsel appearing for the assesseees respectively as well as the learned counsel appearing for the Commercial Taxes Department are ad idem in that, the claim for input tax in these matters relates to financial years 2017-18, 2018-19, 2019-20 and 2020-21 and that the



W.P.Nos.3457 of 2022 etc. batch

claim has been made prior to 30.11.2021.

WEB COPY 7. In light of the aforesaid, the impugned show cause notices and orders are quashed and W.P.Nos.12323 of 2024, 6362 & 4608 of 2024, 18163 of 2023, 3465 of 2022 & WP(MD)Nos.4453 & 4454 of 2023, are allowed. We clarify that if any portion of the impugned demands had been remitted, the assesseees are not entitled to refund of the same, having regard to Circular No.237/31/2024-GST dated 15.10.2024. No costs. Connected Miscellaneous Petitions are closed.

[A.S.M., J] [N.S., J]
02.07.2025

vs/sl

Index:Yes/No

Speaking order

Neutral Citation:Yes

Note: Registry is directed to type full cause title, if necessary, while issuing this order.

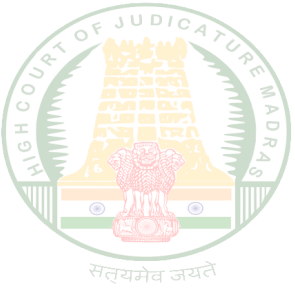
To

1. The Assistant Commissioner of Central Taxes
II Division, SIPCOT,
Hosur 635 126.

2. The Secretary,
Department of Revenue, Ministry of Finance,
North Block, New Delhi 110 001.

DR. ANITA SUMANTH, J.
and

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W.P.Nos.3457 of 2022 etc. batch

N. SENTHILKUMAR.,J

vs/sl

W.P.Nos.3457 of 2022 etc. batch

02.07.2025