



# Lawgics

By Nidhi, Advocate



Judgment No.: 098  
Dt.: 29-03-2024



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## Judgment Deals With

Section/Rule	Section 73
Authority	Madras High Court
Case Name	Vijaykumar, Sole Proprietor of Tvl.Vijay Enterprises VS The State Tax Officer
Dated	14 <sup>th</sup> March, 2024

### Brief Facts:

The petitioner is engaged in the business of supply of bricks, blocks, tiles and ceramic goods. The petitioner was unaware of proceedings commencing from issuance of an intimation dated 19.01.2023 and culminating in the impugned assessment order dated 24.07.2023. He assailed both an assessment order dated 24.07.2023 and a consequential bank attachment notice dated 26.02.2024.

### Contention of the Petitioner:

The petitioner had claimed Input Tax Credit (ITC) of Rs.54,000/- each for SGST and CGST in the GSTR-3B return, whereas the auto-populated GSTR-2A return reflected the availability of ITC to the extent of Rs.3,23,967/- each towards SGST and CGST. Thus, the conclusion that the petitioner wrongly availed of eligible ITC is patently wrong and indicates complete non application of mind.

### Findings & Decision of the Court:

On perusal of the impugned assessment order, it is evident that the petitioner availed of a lower amount as ITC than the amount reflected in the auto-populated GSTR-2A return.

Thus, the conclusion that the petitioner wrongly availed of ITC indicates non application of mind. Therefore, the impugned assessment order was quashed and the matter was remanded to the assessing officer for reconsideration. Since the sum of Rs.10,86,310/- was appropriated from the petitioner's Canara Bank account, the attachment notice issued to recover the tax demand shall stand raised and the amount appropriated shall abide by the outcome of the remanded proceedings.

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