



# Lawgics

By Nidhi, Advocate



**Judgment No.: 157**  
**Dt.: 17-07-2024**



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## Judgment Deals With

**Procedural mistakes in transitioning ITC should not lead to denial of credit if substantive entitlement is proven, when petitioner had reflected ITC in monthly GSTR-3B returns & utilized this credit to discharge tax liability under GST Act, instead of filing TRANS-01.**

<b>Section/Rule</b>	Section 140
<b>Authority</b>	Madras High Court
<b>Case Name</b>	Tvl. Moon Labels VS The Government of India
<b>Dated</b>	11 <sup>th</sup> June, 2024
<b>Citation</b>	W.P.(MD) No.3450 of 2024

### Brief facts of the case:

The petitioner has challenged the impugned order dated 27.12.2023 passed by the Department for the Assessment Year 2017-2018 and also the impugned Notification No. 09/2023-Central Tax, dated 31.03.2023.

### Contention of the Petitioner:

The petitioner had unutilized the input tax credit under the provisions of the Tamil Nadu Value Added Tax Act, 2006 as on 30.06.2017 being the late date, on which, the said Act was applicable to the petitioner as on the following date, the respective GST enactments were implemented and rolled out.

The petitioner was entitled to transition of input tax credit lying unutilized in its VAT returns as on 30.06.2017 in terms of Section 140 of the respective GST enactments.

Instead of filing necessary declaration in Form TRANS-01 as is required under Section 140 of the TNGST Act, 2017 read with Rule 117 of the TNGST Rules, 2017, the petitioner straightway proceeded

to reflect the input tax credit that was lying in its VAT Returns, in monthly returns in Form GSTR-3B. The VAT Returns of the petitioner have also been uploaded by the petitioner on the website of the Commercial Tax Department subsequently on 04.12.2017. The petitioner proceeded to utilize the aforesaid credit to discharge its tax liability under the TNGST Act, 2017 which has sought to be denied to the petitioner.

#### **Findings & Decision of the Court:**

The credit that was availed by the petitioner under the provisions of the TNVAT Act, 2006 was to be allowed subject to the petitioner complying with the requirements of Section 140 of the TNGST Act, 2017 read with Rule 117 of the TNGST Rules, 2017.

The credits that are availed under the provisions of the TNVAT Act, 2006 are indefeasible in nature. Thus, the input tax credit that was availed by the petitioner under the provisions of TNVAT Act, 2006 is indefeasible and if it is not allowed to be utilized for discharging the tax liability under TNGST Act, 2017 or CGST Act, 2017 or IGST Act, 2017, it has to be refunded back unless the provisions itself provide for lapsing of such credits.

The provisions of Section 54 of the TNGST Act, 2017 also do not provide for the refund of such unutilized input tax credit that was not transitioned under Section 140 of the TNGST Act, 2017.

Therefore, the impugned order can be set aside for verification as to whether the petitioner had validly availed input tax credit under the provisions of the TNVAT Act, 2006 and the credit availed by the petitioner satisfied the requirements of Section 19 of the TNVAT Act, 2006 read with relevant Rules.

Thus, the impugned order was set aside and the case was remitted back to the Department to pass a fresh order on merits as if the petitioner was indeed entitled to transition such amounts under Section 140 of the TNGST Act, 2017, such credit may be allowed to be set off against the tax liability as procedural infraction in transitioning the credit should not be denied. The rules or procedures are hand-maids of justice not its mistress.