

W.A(MD) No.1821 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**Reserved on : 09.07.2025**

**Pronounced on : 14.07.2025**

**CORAM**

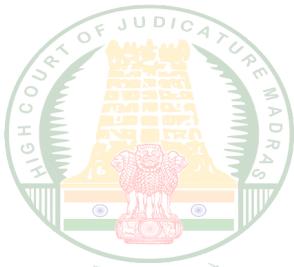
**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN  
AND  
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD) No.1821 of 2025  
and  
C.M.P.(MD)No.10304 of 2025

M/s.Eminent Textiles Mills Private  
Limited,  
Rep. by its Director,  
R.Balaguru ... Appellant / Writ Petitioner

Vs.

- 1.The State Tax Officer,  
Rajapalayam – 2 Assessment Circle,  
Office of the Assistant Commissioner (ST)-2,  
Commercial Tax Building,  
Rajapalayam – 626 117.
- 2.The Assistant Commissioner (ST)-2,  
Audit Officer, Tamil Nadu Commercial Taxes  
Department, Commercial Tax Building,  
NGO Colony, Satchiyapuram,  
Sriviliputhur Road,  
Sivakasi – 626 124.



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3. The Deputy Commissioner (Appeals),  
Commercial Tax Building Complex,  
A.R.Line Road,  
Palayamkottai,  
Tirunelveli – 627 002.

... Respondents / Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 23.04.25 in WP(MD)No.11150 of 2025.

For Appellant : Mr.S.Renganathan

For Respondents : Mr.R.Sureshkumar  
Additional Government Pleader

### **JUDGEMENT**

**(By G.R.SWAMINATHAN, J.)**

The appellant company is a registered tax payer with the first respondent herein. They are engaged in the business of manufacturing cotton textiles. The case on hand pertains to the assessment year 2019-20. GST audit was held under Section 65 of the Tamil Nadu Goods and Services Tax, 2017. Certain discrepancies were noticed. Show cause notice was issued. Explanation was called for. Personal hearing



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was granted but not availed. Finally, order dated 30.08.2024 was passed by the first respondent under Sections 16(1), 16(2), 39, 9(3) and 50 of TNGST Act, 2017 and the tax, interest and penalty were determined to the tune of Rs.5,96,90,012/-.

The appellant filed application dated 29.11.2024 under Section 161 of the TNGST Act, 2017 to rectify the order issued under Form GST DRC-07 dated 30.08.2024.

The application was rejected vide order dated 21.01.2025. Aggrieved by the same, the appellant filed WP(MD)No.11150 of 2025. The writ petition was dismissed by the learned Single Judge vide order dated 23.04.2025.

The learned Single Judge rejected the stand of the appellant and directed them to avail the appeal remedy. Aggrieved by the same, this writ appeal has been filed.

2. The learned counsel appearing for the appellant raised only one contention. According to him, the rectification application filed by him could not have been dismissed without affording an opportunity of personal hearing. The impugned order thus suffers from the vice of violation of principles of natural justice. He relied on the decision of this Court in ***Suriya Cement Agency, rep. by its Proprietor Salai Sivakumar***

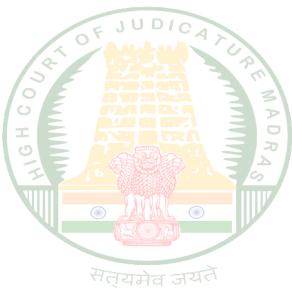


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***Vidya v. The State Tax Officer (ST), State of Tamil Nadu [2024 (12)***

**WEB COPY TMI 57).** A similar view was taken by the Division Bench of the Delhi High Court in the decision reported in ***HVR Solar Private Limited v. Sales Tax Officer Class II Avato Ward 67 and anr (2025 SCC OnLine Del 2300)***. Yet another decision supporting the stand of the appellant was rendered in ***Pinstar Automotive India Pvt. Ltd v. Additional Commissioner, Office of the Commissioner of GST and Central Excise Chennai (2023 (3) TMI 1168***. It has been held therein that the rectification order, if allowed in favour of the petitioner seeking rectification, hearing can be dispensed with. However, if the rectification application is to be decided adversely affecting the right of the applicant, the principles of natural justice have to be followed and a hearing ought to be given, if sought. The learned counsel for the appellant called upon this Court to set aside the order impugned in the writ petition as well as the order of the learned Single Judge and remit the matter to the file of the authority for fresh consideration.

3. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the order of the learned Single Judge does not call for any interference.



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4. We carefully considered the rival contentions and went through  
**WEB COPY** the materials on record. The order impugned in the writ petition was  
passed under Section 161 of the TNGST Act. The said provision reads  
as follows :

**“Section 161. Rectification of errors apparent on the face  
of record.-**

Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:



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Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.”

The corresponding provision in CGST Act is also in pari materia. **HVR Solar Pvt Ltd.**, also dealt with a provision which is in pari materia. In **Suriya Cement Agency**, the learned Judge has held as follows :

“8.A perusal of the order does not also indicate that there had been no error apparent on the record to reject the rectification. He had only extracted the tables indicating the figures which the petitioner is liable to pay. There is also no reasonings as to why there is no error apparent on the face of the record. For this reason, the impugned order dated 02.02.2024 is liable to be set aside. Even though, strenuous efforts had been made by the learned Additional Government Pleader that no personal hearing need to be given when an application had been made at the instance of the assessee, I am not in agreementd with the learned Additional Government Pleader. The Provisio indicates that when an order is being made adverse to the assessee, then he should be given an opportunity of being heard when the rectification adversely affects any person. The principles of natural justice had been inbuilt by way of the 3rd Proviso to Section 161. If pursuant to a Rectification Application, if a rectification is made and if it adversely affects the assessee, Proviso 3



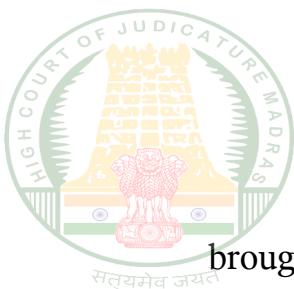
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contemplates an opportunity of hearing to be given. However, when an Rectification Application is made at the instance of assessee and the rectification is being sought to be rejected without considering the reasons for rectification or by giving reasons as to why such rectification could not be entertained. It is also imperative that the assessee to be put on notice.”

Another learned Judge of this Court in ***Pinstar Automative India Pvt. Ltd*** held that where the authority proposes to take a view adverse to the applicant, due process must be followed. The aforementioned decisions have proceeded on the premises that an adverse decision in the rectification application cannot be taken by the assessing officer without first putting the applicant on notice.

5. An order dismissing a rectification application is also an adverse decision. The question that calls for consideration is whether the third proviso to Section 161 of TNGST Act, 2017 requires complying with the principles of natural justice even for dismissing a rectification petition. To answer this question, we have to read the provision in its entirety. The provision had already been extracted in full. It is seen that the main provision empowers the assessing officer to rectify any error which is apparent on the face of the record either on his own motion or when it is



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WEB COPY brought to his notice by any officer appointed under TNGST Act or CGST Act or by the affected person. The third proviso to Section 161 alone is material for the present purposes. It reads as follows :

“Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.”

It is obvious that the words “such rectification” refer to rectification contemplated in the main provision which could be as a result of any of the three contingencies referred to therein. The three contingencies are

1. suo motu
2. on reference from any officer
3. on application by the affected person

The word “rectification” means correction of an error or removal of a defect. “Rectify” means correcting/amending (vide P.Ramanatha Aiyar's Advanced Law Lexicon). Rectification in the very nature of things involves alteration. Where there is no alteration, there is no rectification. The third proviso will kick in only when there is rectification and the said rectification affects any person. In other words, these two elements must be present to trigger the application of the third proviso. When the rectification application is dismissed as such without there being



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anything more, the original order stands as such. In that event, there is no rectification at all. When there is no rectification, there is no question of invoking the principles of natural justice. It is one thing to say that the principles of natural justice must be read into the Section. It is entirely another thing to say that the third proviso to Section 161 of TNGST Act demands following the principles of natural justice even when there is no rectification. A plain reading of the said proviso does not yield any conclusion that formation of an adverse view while disposing of the rectification application would require complying with the principles of natural justice. That is not the plain meaning of the proviso. When the legislature has consciously indicated as to when the principles of natural justice should be followed, it is not for the writ court to add further circumstances or situations. The third proviso talks of rectification which is a positive act. “Refusal to rectify” cannot be read into the expression “such rectification”. This situation is not envisaged by the third proviso.

6. With utmost respect to the learned Judges, we are unable to agree with their interpretation of the third proviso. There is no requirement



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that before dismissing the rectification application, the authority must hear the applicant. The order of the learned Single Judge is confirmed.

The appellant is given two more weeks from today to file an appeal against the order impugned in the writ petition. If such an appeal is filed within the time limit mentioned above, it shall be entertained without reference to limitation. The appellant should of course comply with the other statutory requirements if any.

7. This writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)  
14.07.2025

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Index : Yes / No  
Internet : Yes / No  
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To

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Office of the Assistant Commissioner (ST)-2,  
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