IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.515 of 2025
and
W.M.P.No.609 & 610 of 2025

Haneefa Super Market
Represented by its Partner
Tambaratha Abdul Salam Zahir Hussain,
103, Trunk Road, Poonamalle,
Chennai – 600 056. ... Petitioner

Vs.

1.Additional Commissioner Appeals II
Office of the Commissioner of GST and
Excise Appeals II,
Newry Towers, 2nd Floor,
No.2054, I Block, II Avenue,
12th Main Road, Anna Nagar,
Chennai – 600 040.

2.Deputy Commissioner,
Poonamallee Division,
Office of the Deputy/Assistant Commissioner,
of GST & Central Excise,
Poonamallee Division R-40, 100 ft, Road,
Mogappair, Chennai – 600 037.

3.Assistant Commissioner,
Circle – I, Audit – II Commissionerate,
No.692, 6th Floor, MHU Complex,
Annasalai, Chennai – 600 035. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the impugned order of the first respondent passed in order in Appeal No.227/224-ADC (GST A – II) dated 27.08.2024 and quash the same.

For Petitioner	... Ms.Divya . A
For Respondent	... Mr.Rajnish Pathiyil Senior Standing Counsel

ORDER

Today, the matter is listed under the caption “for being mentioned”. This Court, vide order dated 09.01.2025, disposed of the writ petition.

2.It is submitted by the learned counsel for the petitioner that the order dated 27.08.2024 is the order of the appellate authority and not the order of adjudication.

3.In view thereof, the order dated 09.01.2025 is recalled and instead, this Court is inclined to pass the following order;

4.It is submitted by the learned counsel for the petitioner that an appeal has already been filed before the appellate authority and that the appellate authority has confirmed the order of assessment. A further appeal would lie before the Tribunal. However, the Tribunal is yet to be constituted/established.

5.In view thereof, the learned counsel for the petitioner seeks liberty to file an appeal as and when tribunal is established / constituted and would also submit that they are ready and willing to pay 10%, which is the pre-deposit for filing an appeal before the Tribunal and would only request that until the Tribunal is established /Constituted, all recovery proceedings shall be kept in abeyance.

6.The learned counsel for the respondent would submit that subject to condition of 10% being paid, all proceedings shall be kept in abeyance.

7.In view thereof, The writ petition is disposed of with liberty to the petitioner to file an appeal as and when tribunal is established / constituted. The earlier order dated 09.01.2025 is recalled in view of the fact that it is brought to the notice of this Court that the assessment order has been subject matter of appeal before the first appellate authority. No costs. Consequently, connected miscellaneous petitions are closed.

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
sms

28.01.2025

To

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MOHAMMED SHAFFIQ,J.

sms

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and
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