IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6893 of 2025
and
W.M.P.Nos.7595 of 2025

M/s. Standard Painting and Decorators,
Rep. By Anil Tiwari. Proprietor. ...Petitioner

Vs.

1. The Deputy Commissioner,
Office of the Deputy Commissioner of GST &
Central Excise, Mylapore Division,
Chennai North Commissionerate,
26/1,Mahatma Gandhi Road, Chennai- 34.

2. The Joint Commissioner of GST
& Central Excise, Mylapore Division,
Chennai North Commissionerate,
26/1,Mahatma Gandhi Road,
Chennai- 34. . ..Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to pass orders on merits on the petition for rectification dated

22.01.2025 after granting an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

Order

Heard Mr.V.Srikanth, learned counsel appearing for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel, who takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition is filed seeking for an issuance of a Writ of Mandamus directing the first respondent to pass orders on merits on the petition for rectification dated 22.01.2025 after granting an opportunity of personal hearing to the petitioner.

3. The learned counsel for the petitioner would submit that the Rectification Petition filed by the petitioner dated 22.01.2025 has not evoked any response, hence, the present Writ Petition is filed seeking for aforesaid prayer.

4. The learned Senior Standing Counsel for the respondents would submit that the Rectification Petition filed by the petitioner is not maintainable, for the reason that, the issue raised by the petitioner that the show cause notice is barred by limitation cannot be an issue in a Rectification Petition.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, it is seen that the first respondent issued a show cause notice dated 28.04.2022. According to the learned counsel for the petitioner the show cause notice is barred by limitation, hence, the petitioner has not chosen to file reply/objection. However, the first respondent passed an order dated 28.02.2023, confirming the proposals contained in the show cause notice. Hence, the petitioner filed a Petition seeking for rectification of the order passed by the first respondent dated 28.02.2023, on 22.01.2025, on the ground that the entire proceedings is bared by limitation, since the limitation period for issuance of show cause notice expired as early as on 25.10.2021. However, since the said Rectification Petition has not yet been disposed of, the present Writ Petition is filed seeking disposal of the same.

6.1 Though according to the learned Senior Standing Counsel for the respondents, the Rectification Petition filed by the petitioner dated 22.01.2025 is not maintainable owing to the fact that the issue as to whether the show cause notice dated 28.04.2022 issued by the first respondent is barred by limitation or not cannot be raised in Rectification Petition, this Court is of the view that it is for the first respondent to decide the maintainability of the Rectification Petition, and in case, the first respondent finds that there is no error apparent on the face of record, he is empowered to reject the same, instead of doing so, the first respondent cannot keep the matter pending.

6.2 Therefore, this Court directs the first respondent to dispose of the said Rectification Petition filed by the petitioner dated 22.01.2025 as expeditiously as possible, preferably, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

27.02.2025

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To

1. The Deputy Commissioner,
Office of the Deputy Commissioner of GST &
Central Excise, Mylapore Division,
Chennai North Commissionerate,
26/1,Mahatma Gandhi Road, Chennai- 34.

2. The Joint Commissioner of GST
& Central Excise, Mylapore Division,
Chennai North Commissionerate,
26/1,Mahatma Gandhi Road, Chennai- 34.

Krishnan Ramasamy,J.,

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