IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23571 of 2025
and
W.M.P.Nos.26475, 26478 and 33350 of 2025

Tvl.Aishwarya Boiler Systems,
Represented by its Partner
Sekhar M ... Petitioner

Vs.

1.Assistant Commissioner,
Thirumullaivoyal Zone-III,
Chennai North,
Room No.115,
1st Floor,
Integrated Commercial Taxes Office Building,
No.32, Elephant Gate Bridge Road,
Park Town,
Chennai – 600 003.

2.Deputy Commissioner (CT),
GST Appeals,
Main Building,
2nd Floor,
Greams Road,
Chennai – 600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the

Impugned Order bearing Reference No.ZD330123073390W dated 21.01.2023 along with its summary in DRC-07 bearing Reference No.ZD330123073390W dated 21.01.2023 passed by the 1st Respondent, and the consequent Rejection Order passed by the 2nd Respondent, in Form GST APL-02 bearing Reference No.ZD3305250274897 dated 06.05.2025, quash the same.

(Prayer amended as per Order of this Court dated 18.12.2025
in W.M.P.No.33344 of 2025 in W.P.No.23571 of 2025)

For Petitioner : Mr.R.Parthasarathy

For Respondents : Mr.C.Harsharaj
Special Government Pleader

ORDER

In this Writ Petition, the Petitioner has challenged the Order bearing Reference No.ZD330123073390W dated 21.01.2023 passed by the 1st Respondent along with its Summary Order in GST DRC-07 and the Appeal Rejection Order in Form GST APL-02 bearing Reference No.ZD3305250274897 dated 06.05.2025 of the 2nd Respondent, whereby the Petitioner's Appeal against the aforesaid impugned Assessment Order dated 21.01.2023 was rejected on the ground of limitation.

2. It is noticed that the Appeal against the impugned Assessment Order was filed before the 2nd Respondent 68 days beyond the condonable period of limitation on 28.07.2023.

3. At the time of filing of the Appeal, the Petitioner deposited 10% of the disputed tax. However, since the Appeal was filed beyond the condonable period, the same was rejected by the 2nd Respondent on 06.05.2025.

4. Learned counsel for the Petitioner submits that the impugned Orders dated 21.01.2023 and 06.05.2025 of the 1st Respondent and 2nd Respondent respectively are arbitrary as the demand has been confirmed merely because the Petitioner has failed to respond to the Show Cause Notice in GST DRC-01 dated 20.07.2022.

5. Learned Special Government Pleader for the Respondents on the other hand would submit that this Writ Petition is liable to be dismissed as the Petitioner has left over the rights in terms of the decisions of the Hon'ble Supreme Court in **Singh Enterprises** Vs. **Commissioner of Central Excise**, **Jamshedpur and others**, (2008) 3 SCC 70 and in **Commissioner of**

Customs and Central Excise Vs. **Hongo India Private Limited and another**, (2009) 5 SCC 791 and also in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

6. That apart, it is submitted by the learned Special Government Pleader for the Respondents that the Petitioner has not substantiated the case with any documents and therefore, on this count also, this Writ Petition is liable to be dismissed.

7. Considering the same and following the consistent view taken by this Court under similar circumstances, the impugned Appellate Order dated 06.05.2025 of the 2nd Respondent is quashed and the case is remitted back to the 2nd Respondent / Appellate Authority to pass a detailed order on merits, subject to the Petitioner depositing another 15% of the disputed tax over and above 10% of the disputed tax, which was already deposited by the Petitioner at the time of filing of the Appeal. The aforesaid 15% of the disputed tax shall be deposited in cash from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

8. In case the Petitioner complies with the above stipulation, the 2nd Respondent / Appellate Authority shall entertain the appeal and dispose of the same on merits on its own turn after hearing the Petitioner without reference to the aspect of limitation.

9. In case the Petitioner fails to comply with the above stipulation, the Authorities under the Act are at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

10. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

18.12.2025
(2/2)

Neutral Citation : Yes / No

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To:

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C.SARAVANAN, J.

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