IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.07.2025

Coram:

The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.Nos.25281 & 25497 of 2025
and W.M.P.Nos.28455, 28458, 28661 & 28662 of 2025

Tvl.Trigger Apparels Limited,
GSTIN: 33AACCT1080A1Z2,
Represented by its Proprietor
Sundaram Vijaykumar,
126, Arts College Road,
Coimbatore – 641 018.

...Petitioner in both W.Ps

Versus

1.The Deputy Commissioner (ST) (FAC),
GST Appeals, Commercial
Tax Office Buildings,
Dr.Balasundaram Road,
Coimbatore – 641 018.

2.The State Tax Officer,
Trichy Road Assessment Circle,
Dr.Balasundaram Road,
Coimbatore – 641 018.

...Respondents in both W.Ps

Prayer in W.P.No.25281 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records pertaining to the impugned order in Form GST DRC – 07 bearing reference number ZD331223162139N/2017-18 dated 21.12.2023 issued by the 2nd respondent and quash the same.

Prayer in W.P.No.25497 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records pertaining to the impugned appeal order in Form GST APL – 02 reference no.ZD330325201823T dated 25.03.2025 read with M.P.No.723/2025 dated 02.04.2025 issued by the 1st respondent and quash the same.

For Petitioner in both W.Ps : Mr.G.Derrick Sam

For Respondents in both W.Ps : Ms.P.Selvi,
Government Advocate (Tax)

COMMON ORDER

Ms.P.Selvi, learned Government Advocate (Tax) takes notice for the respondents.

2. With the consent of both sides, these writ petitions are taken up for final disposal at the admission stage itself.

3. The relief sought in W.P.No.25281 of 2025 is to quash the Order in Form GST DRC – 07 dated 21.12.2023 bearing Ref.No.ZD331223162139N/2017-18 issued by the 2nd respondent.

4. The relief sought in W.P.No.25497 of 2025 is to quash the Order in Form GST APL – 02 dated 25.03.2025 bearing Ref.No.ZD330325201823T read with M.P.No.723/2025 dated 02.04.2025 issued by the 1st respondent.

5. The brief facts of the case are that the petitioner has been duly filing its returns and paying all the statutory taxes. On verification of the returns filed by the petitioner for the Financial Year 2017-18, it was found by the Officials that there is a difference between GSTR-3B and GSTR-2A. Hence, the 2nd respondent vide Show Cause Notice in Form GST DRC-01 dated 26.09.2023, proposed a liability totalling at Rs.17,41,206/- and called upon the petitioner to file its Reply to the Show Cause Notice by 26.10.2023 and to appear for personal hearing on 26.10.2023 at 12.20 p.m. In response to the said Show Cause Notice, the petitioner filed its Reply

vide Form GST DRC-06 on 27.09.2023. Thereafter, the 2nd respondent passed an Order in Form GST DRC-07 dated 21.12.2023, directing the petitioner to pay the demand of Rs.38,30,652/- comprising tax, interest and penalty by 21.03.2024. Aggrieved by the said order, the petitioner filed an Application dated 06.02.2024 before the 2nd respondent seeking to rectify the Order in Form GST DRC-07 dated 21.12.2023. That apart, challenging the Order in Form GST DRC-07 dated 21.12.2023, the petitioner preferred an Appeal in Form GST APL-01 dated 27.05.2024 before the 1st respondent. While so, the petitioner's Application dated 06.02.2024 was rejected by the 2nd respondent vide Order dated 13.02.2025. Thereafter, the 1st respondent vide Order in Form GST APL-02 dated 25.03.2025, rejected the petitioner's Appeal for the reason that the Appeal has been filed beyond the condonable limit with a delay of 35 days. Hence, left with no other alternative, the petitioner has filed the present writ petitions before this Court.

6. The learned counsel for the petitioner submitted that the Show Cause Notice in DRC-01 dated 26.09.2023 was uploaded in “View Additional Notices and Orders” column in GST Portal and similarly, Order in Form GST DRC-07 dated 21.12.2023 as well as Order in Form GST

APL-02 dated 25.03.2025 were also uploaded in the GST portal and the same were not served to the petitioner through physical mode.

6.1. It is further submitted by the learned counsel for the petitioner that in the Show Cause Notice in Form GST DRC-01 dated 26.09.2023, it had been alleged that there is a difference between GSTR-3B and GSTR-2A, but, in the Order in Form GST DRC-07 dated 21.12.2023, it has been mentioned that there is a difference between GSTR-3B and GSTR-1. Therefore, it is submitted that the Order in Form GST DRC-07 dated 21.12.2023 has been passed in violation of the principles of natural justice.

6.2. The learned counsel for the petitioner submitted that the Order in Form GST DRC-07 dated 21.12.2023 passed by the 2nd respondent and Order in Form GST APL-02 dated 25.03.2025 passed by the 1st respondent were cryptic and non-speaking orders.

6.3. It is also submitted by the learned counsel for the petitioner that challenging the Order in Form GST DRC-07 dated 21.12.2023, the petitioner filed an Application before the 2nd respondent on 06.02.2024 and during the pendency of said Application, challenging the very same Order in Form GST DRC-07 dated 21.12.2023, petitioner preferred an Appeal before the 1st respondent. Subsequent to the filing of Appeal, the 2nd respondent vide Order dated 13.02.2025, rejected the Application filed by the petitioner and thus, the cause of action to file the Appeal arises only on 13.02.2025. Therefore, it is submitted that there is no delay in filing the Appeal.

6.4. The learned counsel for the petitioner submitted that now the petitioner is ready and willing to pay 5% of the disputed tax over and above the 10% of disputed tax payable towards statutory pre-deposit for filing the Appeal, if this Court is inclined to quash the Order in Form GST APL-02 dated 25.03.2025 passed by the 1st respondent and condone the delay in filing the Appeal.

7. The learned Government Advocate (Tax) appearing for the respondents submitted that if the delay is condoned and the petitioner's Appeal is restored, the 1st respondent would take up the petitioner's Appeal and dispose of the same, within a time frame to be fixed by this Court.

8. Heard the learned counsel for the petitioner and learned Government Advocate (Tax) for the respondents.

9. From a perusal of the materials available on record, it is seen that as against the Order in Form GST DRC-07 dated 21.12.2023 passed by the 2nd respondent, petitioner preferred an Appeal before the 1st respondent on 27.05.2024. However, the 1st respondent has rejected the petitioner's Appeal on the ground that the Appeal has been filed beyond the condonable time limit. Now, the petitioner is willingly come forward to pay 5% of the disputed tax, over and above the 10% of disputed tax payable towards statutory pre-deposit for filing the Appeal.

10. Considering the above facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, W.P.No.25497 of 2025 is disposed of with the following directions:

(i) The Order in Form GST APL-02 dated 25.03.2025 read with Order dated 02.04.2025 in M.P.No.723 of 2025 impugned in W.P.No.25497 of 2025 is quashed and the delay in filing the Appeal before the 1st respondent is condoned and consequently, the petitioner's Appeal is restored on the file of 1st respondent on condition that the petitioner shall pay 15% of the disputed tax (additional 5% of the disputed tax along with 10% of disputed tax payable towards statutory pre-deposit for filing the Appeal) to the respondent-Department, within a period of four weeks from the date of receipt of a copy of this order.

(ii) After making the aforesaid payment, the petitioner shall produce the payment proof before the 1st respondent.

(iii) Upon production of such payment proof, the 1st respondent shall take up the petitioner's Appeal and dispose of the same on merits and in accordance with law, if it is otherwise in order, within a period of two weeks thereafter.

11. In view of the directions which have been issued in W.P.No.25497 of 2025, W.P.No.25281 of 2025 is dismissed as no further adjudication is required in the same. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.07.2025

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Deputy Commissioner (ST) (FAC),
GST Appeals, Commercial Tax Office Buildings,
Dr.Balasundaram Road, Coimbatore – 641 018.

2.The State Tax Officer,
Trichy Road Assessment Circle,
Dr.Balasundaram Road, Coimbatore – 641 018.

KRISHNAN RAMASAMY, J.

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