IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.34486 of 2025
and
W.M.P.Nos.38648, 38649 and 38650 of 2025

Tvl.Arun & Co.,
Represented by its Partner Mr.Arun ... Petitioner

Vs.

1.The Deputy State Tax Officer-2 (ST),
Mettur Assessment Circle,
6-1-182 Sakthi Nagar, Raman Nagar Post,
Salem Main Road, Mettur Dam,
Salem - 635 404.

2.The Deputy Commissioner (GST Appeal),
Erode and Salem,
No.161, Commercial Taxes New Building,
Brough Road, Erode - 638 001.

3.The Assistant Commissioner (ST),
Mettur Assessment Circle,
6-1-182 Sakthi Nagar, Raman Nagar Post,
Salem Main Road, Mettur Dam,
Salem - 635 404. ... 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 of the impugned Order under Section 74 dated 15.10.2024 having Reference Number ZD331024097723G for the tax period April 2021 to March 2022 passed by the 1st Respondent and the Appeal Rejection Order in Form GST APL-02 dated 23.07.2025 having Reference Number AD3307250532092 passed by the 2nd Respondent and quash the same.

For Petitioner : Mr.M.Rajesh
for Mr.S.Anandh

For Respondents : Ms.P.Selvi
Government Advocate

ORDER

Ms.P.Selvi, learned Government Advocate takes notice for the Respondents.

2. This Writ Petition is being disposed of at the time of admission after hearing the learned counsel for the Petitioner and learned Government Advocate for the Respondent.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 15.10.2024 which was preceded by a Show Cause Notice in GST DRC-01 dated 11.05.2023 for the tax period between April 2021-

March 2022. The Petitioner had failed to response to the Show Cause Notice in GST DRC-01 dated 11.05.2023.

4. The Petitioner attempted to file an appeal before the Appellate Authority under Section 107 of the respective GST enactments on 18.07.2025 long after the expiry of the limitation prescribed under Section 107 of the respective GST enactments.

5. Thus, appeal also has been rejected by the 1st Respondent *in limine* vide impugned Order dated 23.07.2025. The Petitioner submits that during the pendency of the appeal, entire amount of tax has been recovered from the Petitioner.

6. It is submitted that the Petitioner be given one chance to substantiate the case. The demand has been confirmed against the Petitioner merely because the Petitioner failed to respond to the Show Cause Notice in GST DRC-01 dated 11.05.2023.

7. Learned Government Advocate for the Respondents would submit that the present Writ Petition is devoid of merits and is liable to be dismissed in the light of the decisions rendered by 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.

8. Having considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondents and following the consistent view of this Court under similar circumstances has been to relegate the party to work out the remedy, this Court is inclined to dispose of this Writ Petition by quashing the impugned Order dated 15.10.2024 as also the impugned Appeal Rejection Order dated 23.07.2025 subject to the Petitioner depositing 25% of the disputed tax 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, in case no amount has been recovered from the Petitioner.

9. In case amount has been already recovered, no further recovery proceedings shall be made.

10. The Petitioner shall however file a detail reply to the Show Cause Notice in DRC-01 dated 20.05.2024 by treating the impugned Order dated 15.10.2024 as an addendum to the Show Cause Notice dated 11.05.2023 within a period of thirty (30) days from the date of receipt of a copy of this order.

11. In case the Petitioner complies with the above stipulated conditions, the Respondents shall proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months thereafter, after hearing the Petitioner.

12. In case the Petitioner fails to comply with any of the conditions stipulated above, the Respondents are at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

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

16.09.2025

Neutral Citation : Yes / No

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C.SARAVANAN, J.

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