IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.34493 of 2025
and
W.M.P.Nos.38655 and 38656 of 2025

TRIO MANAGEMENT CONSULTANTS,
Represented by its Proprietor
John Thomas ... Petitioner

Vs.

1.The Deputy Commissioner (CT),
Office of the Deputy Commissioner (ST),
GST Appeal, Chennai I, 2nd Floor,
Main Building, Room No.210,
No.1, Greams Road, Chennai - 600 006.

2.The Deputy State Tax Officer,
Integrated Commercial Taxes Building,
(North Division), First Floor,
Room No.122, Elephant Gate Bridge Road,
Vepery, Chennai - 600 003. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the 2nd Respondent's Demand Order made in Reference No.ZD3303241958850 dated 28.03.2024 and the 1st Respondent Order in Reference No.ZD331124246477G dated 26.11.2024 and quash the same and consequently direct the respondents to give an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader 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 Additional Government Pleader for the Respondents.

3. In this Writ Petition, the Petitioner has challenged the impugned Demand Order dated 28.03.2024 passed by the 2nd Respondent and the Order dated 26.11.2024 of the 1st Respondent whereby the appeal of the Petitioner against the aforesaid Order dated 28.03.2024 has been rejected.

4. The Petitioner had also been issued with a Show Cause Notice in GST DRC-01 dated 13.12.2023 for the Tax Period between April 2018 and March 2019. The Petitioner however failed to respond to the same and thus suffered

impugned Demand Order dated 28.03.2024. An appeal against the same was filed before the Appellate Authority after a lapse of 9 months i.e., on 05.11.2024.

5. At the time of filing of the appeal, the Petitioner has deposited 10% of the disputed tax. However, since the appeal was filed beyond the condonable period, the same was rejected by the 1st Respondent on 26.11.2024.

6. Learned counsel for the Petitioner submits that the impugned Orders dated 28.03.2024 and 26.11.2024 of the 2nd Respondent and the 1st 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 13.12.2023.

7. Learned Additional 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.

8. That apart, it is submitted 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.

9. Having considered the submissions made by the learned counsel for the Petitioner and the learned Additional Government Pleader for the Respondents and having considered the consistent view taken by this Court in similar circumstances, this Court is inclined to come to the rescue of the Petitioner by quashing the impugned Demand Order dated 28.03.2024 of the 2nd Respondent and the impugned Order dated 26.11.2024 of the 1st Respondent on terms subject to the Petitioner depositing another 25% 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 before the Appellate Authority.

10. The aforesaid 25% of the disputed tax shall be deposited by the Petitioner 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.

11. The Petitioner shall file a detail reply to the Show Cause Notice in GST DRC-01 dated 13.12.2023 together with requisite documents to substantiate the case by treating the impugned Demand Order dated 28.03.2024 of the 2nd Respondent and the impugned Order dated 26.11.2024 of the 1st Respondent as addendum to the same, within a period of fifteen (15) days from the date of receipt of a copy of this order.

12. Subject to the Petitioner complying with the above stipulated conditions, the 2nd Respondent 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.

13. In case the Petitioner fails to comply with any of the conditions stipulated above, the 2nd Respondent is at liberty to proceed against the

Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

14. Needless to state, before passing any such order, the 2nd Respondent shall give due notice to the Petitioner.

15. 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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To:

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C.SARAVANAN, J.

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