IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.34442 of 2025
and
W.M.P.Nos.38590 & 38591 of 2025

M/s. Kandan Traders
Rep. by its Managing Partner,
C.Kandan,
No.12, Rajaji Street, Red Hills,
Thiruvallur, Chennai – 600 052. ... Petitioner

Vs.

The Assistant Commissioner,
Office of the Assistant Commissioner of GST &
Central Excise, Ponneri Division,
Chennai Outer Commissionerate,
R-40, A-1, 100 Feet Road, Mogappair,
2nd Floor, Chennai – 600 037. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the impugned order dated 30.08.2024 in Order-in-Original No:342/2024-GST (AC) for the period of 2020-2021 issued by the respondent and quash the same as illegal and arbitrary.

For Petitioner : No Appearance

For Respondent : Mr.Rajnish Pathiyil
Senior Standing Counsel

ORDER

This case is listed today under the caption "For admission" as Item No.4.

2. When the matter was called in the morning, there was no representation for the petitioner and therefore, the matter was passed over to the post session. Even now, when the matter was called, there was no representation for the petitioner.

3. In this Writ Petition, the petitioner has challenged the impugned Order dated 30.08.2024 passed by the respondent in Order-in-Original No:342/2024-GST (AC) for the period 2020-2021.

4. The preamble of the impugned order states that, if the petitioner is aggrieved by the order may file an appeal before the Additional Commissioner (Appeals II) at Newry Towers, No.2054, I Block, II Avenue, 12th Main Road, Anna Nagar, Chennai – 600 040, within 3 months from the date of the order.

5. It is noticed that, the petitioner has not filed an appeal in time.

6. It is also noticed that, the impugned order was preceded by Show Cause Notice No.02/2024-GST dated 24.05.2024 and that the petitioner has replied to the same and has appeared for personal hearing on 03.07.2024.

7. It is further noticed that, following amounts have been confirmed by the impugned Order dated 30.08.2024:

> *"i) I confirm the demand of Rs.36,96,947/- (Rupees Thirty Six Lakh Ninety Six Thousand Nine Hundred and Forty Seven only) being the tax payable for generation of e-way bills without issue of invoices on outward supply resulting in non-payment of tax for the period 2019-20 & 2020-21 as discussed above under Section 73(1) of the CGST Act 2017/TNGST Act2017 read with Section 73(10) of the CGST/TNGST Act,2017 read with Section 20 of IGST Act, 2017;*
>
> *ii) I confirm the demand of Rs.9,83,442/- (Rupees Nine Lakh Eighty Three Thousand Four Hundred and Forty Two Only) being the non/short reversal of Input tax credit on exempt supplies for the year 2020-21, as discussed above, under Section 73(9) of the CGST Act 2017/TNGST Act 2017 read with Section 73(10) of the CGST/TNGST Act, 2017;*
>
> *iii) I confirm the demand of Rs. 17,39,674/- (Rupees Seventeen Lakhs Thirty Nine Thousand Six Hundred and Seventy Four Only) being the tax not paid on mismatch in turnover between Annual Return Table 5R of Form 9C and Financial Statements for the period 2019-2020, as discussed above, under Section 73(9) of the CGST Act 2017/TNGST Act 2017 read with Section 73(10) of the CGST/TNGST Act, 2017;*

iv) I confirm the demand of Rs. 19,93,929/- (Rupees Nineteen Lakhs Ninety three Thousand nine hundred and twenty nine Only) being the excess availment of ITC under the head 'Any other expense' shown in Table 14/GSTR 9C as discussed above, under Section 74(9) of the CGST Act 2017/TNGST Act 2017 read with Section 74(10) of the CGST/TNGST Act, 2017;

v) I confirm the demand of Rs.9,42,940/- (Rupees Nine Lakhs Forty Two Thousand Nine Hundred and Forty only) being the excess availed ITC on Capital goods for the period 2019-2020 as discussed above, under Section 74(9) of the CGST Act 2017/TNGST Act 2017 read with Section 74(10) of the CGST/TNGST Act, 2017;

vi) I confirm the demand of Rs.79,21,892/- (Rupees Seventy Nine Lakhs Twenty One Thousand Eight Hundred and Ninety Two only) being excess availed ITC on purchases for the period 2019-2020, as discussed above, under Section 74(9) of the CGST Act 2017/TNGST Act 2017 read with Section 74(10) of the CGST/TNGST Act, 2017;

vii) I order confirming the demand of interest at the appropriate rate on the above confirmed demands at (i), (ii), (iii), (iv), (v), (vi) above, under Section 50 of the CGST Act,2017/TNGST Act,

viii) I impose the penal y of Rs.10,000/- (Rupees Ten Thousand only) on them of for the contraventions of provisions as discussed in para 9.2 above for non-generation of E-way bills under Section 122(1)(xiv) of CGST Act, 2017;

ix) I impose the penalties of Rs.3,69,694/- (Rupees Three Lakh Sixty Nine Thousand Six Hundred and Ninety Four only), Rs.98,344/- (Rupees Ninety Eight Thousand Three Hundred and Forty Four only) and Rs.1,73,967/- (Rupees One Lakh Seventy Three Thousand Nine Hundred and Sixty Seven only) on them under Section 73(9) of the CGST/TNGST Act, 2017 and Section 122(2)(a) of CGST Act, 2017 read with Section 20 of the IGST Act, 2017 for the demands confirmed at (i), (ii) & (iii) above respectively; and *x) I impose the penalties of Rs. 19,93,929/- (Rupees Nineteen Lakhs Ninety Three Thousand Nine Hundred Twenty Nine only), Rs.9,42,940/-(Rupees Nine Lakh Forty Two Thousand Nine Hundred and Forty only) and Rs.79,21,892/- (Rupees Seventy Nine Lakh Twenty One Thousand Eight Hundred and Ninety Two only) on them under section 74(9) of the COST/TNGST Act, 2017 read with Section 122(2)(b) of the CGST/TNGST Act, 2017 for the confirmed demands made at para (iv) (v) & (vi) above respectively."*

8. At this juncture, relief sought for in this Writ Petition cannot be entertained in view of the decision of the Hon'ble Supreme Court in **Asstt. Commr.(CT), LTU, Kakinada** Vs **Glaxo Smith Kline Consumer Health Care Ltd.,** in C.A.No.2413 of 2020, dated 06.05.2020, where the Hon'ble Supreme Court has held that the limitation prescribed under the Act for filing the appeal cannot be extended.

9. The petitioner also cannot expect the Court to set aside the Impugned Order as there are no procedural irregularities while passing the same.

10. Since the petitioner has approched the Court, this Court is inclined to give liberty to the petitioner to file an appeal before the Additional

Commissioner (Appeals II), Chennai, within a period of 30 days from the date of receipt of a copy of this order, subject to petitioner depositing 50% of the disputed tax in cash.

11. If the petitioner files such appeal along with pre-deposit of 50% of the disputed tax, the Appellate Authority namely Additional Commissioner (Appeals II) Chennai, shall dispose of the appeal on merits after hearing the petitioner without reference to limitation. In case, if the petitioner fails to comply with the same, the respondent is at liberty to proceed against the petitioner in the manner known to law.

12. With these directions, this Writ Petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

16.09.2025

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Neutral Citation : Yes / No

To

The Assistant Commissioner,
Office of the Assistant Commissioner of GST &
Central Excise, Ponneri Division,

Chennai Outer Commissionerate,
R-40, A-1, 100 Feet Road, Mogappair,
2nd Floor, Chennai – 600 037.

C.SARAVANAN, J.

raja

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