IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.34507 of 2025
and
W.M.P.Nos.38671 and 38677 of 2025

Tvl.Best Collection,
Represented by its Proprietor
Abdul Wahab Mohamed Ibrahim ... Petitioner

Vs.

1.Deputy Commissioner (CT),
Salem.

2.Assistant Commissioner (ST) (FAC),
Arisipalyam Circle,
Salem. ... 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 records of the impugned order of the 1st Respondent in Reference No.ZD330225270506K dated 26.02.2025 quash the same and consequently direct the 1st Respondent to number the appeal filed against the Assessment Order dated 22.09.2023 for the Assessment Year 2019-2020.

For Petitioner : Ms.Rukmani Venugopalan

For Respondents : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirtha Poonkodi Dinakaran, 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 the learned Government Advocate for the Respondents following the consistent view taken by this Court under similar circumstances.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 26.02.2025, passed by the 1st Respondent whereby the appeal of the Petitioner against the impugned Assessment Order dated 22.09.2023 for the Assessment Year 2019-2020 has been rejected by the 2nd Respondent as it has been filed beyond the condonable period of limitation.

4. The rejection of the appeal filed by the Petitioner beyond the condonable period of limitation cannot be found fault in the light 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.

5. Therefore to that extent, the impugned Order of the 1st Respondent dated 26.02.2025 cannot be found fault with. However, it is noticed that the Petitioner has suffered the impugned Assessment Order dated 22.09.2023. It is preceded a Show Cause Notice in GST DRC-01 dated 07.07.2023 to which, the Petitioner has not replied.

6. Considering the fact that the Petitioner has already pre-deposited 10% of the disputed tax at the time of filing of the appeal before the Appellate Authority, the impugned Assessment Order dated 22.09.2023 passed by the 2nd Respondent and the impugned Order dated 26.02.2025

passed by the 1st Respondent are quashed and the case is remitted back to the 2nd Respondent to pass a fresh order on terms subject to the Petitioner depositing another 15% 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.

7. Further, there shall be a direction to the 1st Respondent to number the appeal and dispose of the same on merits without reference to the limitation period.

8. The Petitioner shall file a reply to the Show Cause Notice in GST DRC-01 dated 07.07.2023 together with requisite documents to substantiate the case by treating the impugned Assessment Order dated 22.09.2023 and the impugned Order dated 26.02.2025 as addendum to the Show Cause Notice dated 07.07.2023 within a period of fifteen (15) days from the date of receipt of a copy of this order.

9. Subject to the Petitioner complying with the above stipulated conditions, the 2nd Respondent shall proceed to pass a fresh order on merits

and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months thereafter.

10. 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.

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

12. 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:

1.Deputy Commissioner (CT),
Salem.

2.Assistant Commissioner (ST) (FAC),
Arisipalyam Circle,
Salem.

C.SARAVANAN, J.

arb

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