



W.P.No.36716 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.36716 of 2025

and

W.M.P.No.41063 of 2025

Balaji Polycans
Represented by its Proprietrix,
K.Padmapriya

... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Kodungaiyur Assessment Circle,
Commercial Tax Complex,
Elephant Gate Bridge Road,
Chennai – 600 003.

... Respondent

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 on the file of the Respondent in GSTIN:33AJDPP9163H1Z1/2020-2021 dated 05.02.2025 and quash the same and consequently direct the Respondent to conduct enquiry and by the receiving objection and documents from the petitioner dated 25.06.2025 and afford a personal hearing.



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For Petitioner : Mr.Girish Neelakantan

For Respondent : Mrs.K.Vasanthamala
Government Advocate

ORDER

Mrs.K.Vasanthamala, learned Government Advocate takes notice for the Respondent.

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

3. In this Writ Petition, the Petitioner has challenged the impugned order dated 05.02.2025 passed for the tax period 2020-2021, which was preceded by a Show Cause Notice in DRC 01 dated 26.11.2024 wherein the Petitioner was also called upon to appear for personal hearing. The Petitioner failed to respond to the same and has thus suffered the impugned order dated 05.02.2025 in the hands of the Respondent.



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4. Aggrieved by the aforesaid order, the Petitioner has also unsuccessfully challenged the same before the appellate authority whom by the order dated 25.06.2025 beyond the condonable period of limitation. The appeal is liable to be dismissed, as it is beyond the condonable period under Section 107 of the respective GST enactments.

5. The learned counsel for the Petitioner submits that the Department has also recovered a sum of Rs.1,34,660/-, after the impugned order was passed. Since the impugned order is an ex-parte order, following the consistent view taken by this Court under similar circumstances, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 25% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order.

6. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC – 01 dated 26.11.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 05.02.2025 as an addendum to the Show Cause Notice dated 26.11.2024.



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7. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated. Needless to state, any amount that has been recovered pursuant to the impugned order, shall be adjusted for reckoning 25% of the disputed tax.

8. In case the Petitioner fails to comply with any of the stipulations, the 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.

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



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10. This Writ Petition stands disposed of with the above observations.

No costs. Connected Writ Miscellaneous Petition is closed.

06.10.2025

Neutral Citation : Yes / No

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To:

The Assistant Commissioner (ST)(FAC),
Kodungaiyur Assessment Circle,
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C.SARAVANAN, J.

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