IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.35237 of 2025
and
W.M.P.Nos.39457 and 39457 of 2025

Tvl.Team Commotrade (India) Pvt Ltd,
Rep by its Director
Mr.Harish Kumar ... Petitioner

Vs.

1.The Deputy Commissioner (CT),
GST Appeals, Chennai – I,
Greams Road, Chennai – 600 006.

2.The Deputy State Tax Officer,
Peddunaickenpet Assessment Circle,
Room No.208, Second Floor,
Integrated Commercial Taxes Offices Building,
North Division, No.32, Elephant Gate Bridge Road,
Chennai – 600 003. ... 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 2nd respondent in order dated 22.12.2023 in GSTIN 33AAECT3500H1ZT/2017-2018 bearing Reference No.ZD331223178447C and the consequential rejection of appeal order dated 28.03.2025 in FORM GST APL-02 bearing Reference No.ZD330325251642N passed by the 1st respondent and quash the same.

For Petitioner : M/s.C.Rekha Kumari

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. The petitioner is before this Court against the impugned order passed by the 2nd Respondent vide order dated 07.12.2023 passed under Section 73 of the respective GST enactments. The impugned order of the 2nd Respondent dated 07.12.2023 which was preceded by a Show Cause Notice in GST DRC – 01 dated 30.09.2023. However, the Petitioner failed to file a reply and thus, suffered the impugned order dated 07.12.2023.

4. The learned counsel for the Petitioner would submit that by first reminder dated 18.12.2023, the petitioner was informed that the reply and the personal hearing was intimated above, the date by which the reply and the final hearing was fixed to 25.12.2023. It is therefore submitted by the learned counsel for the Petitioner that even before the expiry of the aforesaid period i.e., on 25.12.2023, the impugned assessment order was passed on 07.12.2023 and therefore there has been manifest violation of Principles of Natural Justice.

5. The Petitioner filed an appeal before the 1st Respondent namely The Deputy Commissioner (CT), GST Appeals, Chennai – I on 25.10.2024 which has been now rejected by the 2nd mentioned impugned order in this Writ Petition dated 28.03.2025. As far as the dismissal of the appeal by the 1st Respondent is concerned, the same cannot be found fault as it is lying with the views 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.

6. However, it is noticed that the Petitioner has suffered the impugned assessment order in the hands of the 2nd Respondent dated 07.12.2023, as the Petitioner had failed to reply the same.

7. The consistent view of this Court is to allow the assessees like Petitioners to approach the Original Authority on terms. Since the delay is enormous and considering the fact that the Petitioner has already deposited 10% of the disputed tax at the time of filing an appeal before the 1st Respondent on 25.10.2024, the impugned assessment order dated 07.12.2023 is quashed and the case is remitted back to the 2nd Respondent to pass a fresh order subject to the Petitioner depositing another 30% of the disputed tax over and above 10% already pre-deposited at the time of filing of an appeal before the 1st Respondent. This amount shall be deposited in cash by the Petitioner's Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order.

8. The Petitioner shall file a rely to the Show Cause Notice in GST DRC – 01 dated 30.09.2023 together with requisite documents to substantiate

the case by treating the impugned order dated 07.12.2023 as an addendum to the Show Cause Notice dated 30.09.2023 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 fresh order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months thereafter. Subject to the Petitioner complying with the above stipulated conditions, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

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.

18.09.2025

Neutral Citation : Yes / No

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To

1.The Deputy Commissioner (CT),
GST Appeals, Chennai – I,
Greams Road, Chennai – 600 006.

2.The Deputy State Tax Officer,
Peddunaickenpet Assessment Circle,
Room No.208, Second Floor,
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C.SARAVANAN, J.

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