IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.35588 of 2025
and W.M.P.No.39826 of 2025

M/s.New Fathima Medical Agencies,
Represented by its Proprietor,
Abdulmalik Mohamedali,
New No.66, Old No.93,
Kalavai Street,
Chintadripet,
Chennai-600 002. ... Petitioner

Vs.

1. The Deputy Commissioner (ST),
GST Appeals, Chennai-1,
No.1, PAPJM Buildings (Annex),
Third Floor,
Greams Road,
Chennai-600 006.

2.The Deputy State Tax Officer-1,
Chintadripet Assessment Circle,
Annex Buildings, First Floor,
Greams Road,
Chennai-600 006. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of Mandamus, to direct the first respondent to permit the petitioner to file an appeal against the order DRC-07 dated 26.12.2023 (Ref.No.ZD331223197064L) passed by the second respondent along with a condone delay petition, and dispose of the same on merits in accordance with law, within a time frame to be stipulated by this Court.

For Petitioner	:	Mr.J.Balasundar
For Respondents	:	Mrs.K.Vasanthamala Government Advocate

O R D E R

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

2. In this Writ Petition, the Petitioner sought for a Mandamus to direct the first respondent to permit the Petitioner to file an appeal against the order DRC-07 dated 26.12.2023 passed by the Second Respondent.

3. The admitted position of the case is that there is a huge delay in filing the appeal against the order passed by the Second Respondent dated 26.12.2023 and in approaching this Court by way of this writ petition. As such, the writ petition is liable to be dismissed, in the light of the decisions in ***CCE and Customs Vs.Hongo India (P) Limited*** reported in ***(2009) 5 SCC 791*** and also in the light of the decision rendered by the Hon'ble Supreme Court in ***Assistant Commissioner (CT) LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited*** reported in ***2020 SCC Online SC 440***. However, it was noticed that the Petitioner has been served with the impugned order after DRC-01A notice has been issued on 28.08.2023. The Petitioner was also issued with reminders and was directed to come for personal hearing. However, the Petitioner failed to participate in the same and thereafter, the assessment order was passed dated 26.12.2023 for the tax period 2017-2018.

4. It is noticed that under similar circumstances, this Court has come to the rescue of the persons like the Petitioner subjecting the Petitioner to deposit 25% of the disputed tax. I do not find any reason to take a different view in this case. Therefore, this Writ Petition is disposed of directing the Second Respondent to pass a fresh order in response to the notice in DRC-01A dated 28.08.2023 issued for the tax period 2017-2018 subject to the Petitioner depositing 25% 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.

5. The Petitioner shall file a consolidated reply to the notice in DRC 01A dated 28.08.2023 by treating the order dated 26.12.2023 as addendum to the Show Cause Notice within a period of thirty (30) days from the date of receipt of a copy of this order.

6. In case the Petitioner complies with the above stipulations, the Second 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, after hearing the Petitioner.

7. In case the Petitioner fails to comply with any of the conditions stipulated above, the Second Respondent is at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

8. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

23.09.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

ssb

To

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C.SARAVANAN, J.

ssb

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