IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 35559 of 2025
and
W.M.P. No. 39796 of 2025

M/s. S.D. Enterprises,
Rep., by its Proprietrix,
Sundara Murthi Devi ... 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,
MMDA Assessment Circle,
Egmore Taluk Office, 2nd Floor,
No.88, Mayor Ramanathan Salai,
Spurtank Road, Chennai – 600 031. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the 1st respondent to dispose of the appeal preferred by the petitioner on 26.06.2025 against the order passed by the 2nd respondent in DRC-07 dated 30.01.2025 (Ref.No.ZD330125291265J), along with the condone delay petition, in accordance with law.

For Petitioner : Mr. J. Balasundar

For Respondents : Mrs. P. Selvi,
Government Advocate

ORDER

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

2. In this Writ Petition, the Petitioner has prayed for a mandamus to direct the 1st Respondent, Appellate Authority to dispose of the Petitioner's appeal against Order-in-Original dated 30.01.2025 passed under Section 73 of the respective GST Enactments by the 2nd Respondent.

3. It appears that there was a partial delay in filing the appeal and it has been filed beyond the condonable period of limitation of 30 days. The Petitioner has already deposited 10% of the disputed tax. It is noticed that the order dated 30.01.2025 has been passed for the tax period 2020-2021. It was preceded by a notice in DRC-01 dated 26.11.2024. The Petitioner has not replied to the Show Cause Notice nor participated in the personal hearing inspite of the reminders sent by the Respondent and thus, has suffered the impugned order dated 30.01.2025.

4. The Petitioner's appeal filed beyond the condonable period of limitation cannot be directed to be entertained or disposed of, as the issue is now squarely covered against the Petitioner in terms of the decision of the Hon'ble Supreme Court in ***Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and Others***, reported in ***(2008) 3 SCC 70*** and in ***Commissioner of Customs and Central Excise Vs. Hongo India Private Limited and another***, reported in ***(2009) 5 SCC 791*** and also in ***Assistant Commissioner (CT) LTU, Kakinada and Others Vs. Glaxo Smith Kline Consumer Health Care Limited***, reported in ***2020 SCC Online SC 440***, the writ petition has to be dismissed as the Petitioner is not entitled for relief sought for.

5. However, there are extenuating circumstances in the facts of the case, inasmuch as the Petitioner has not replied to the notice in DRC-01 dated 26.11.2024 which preceded the Assessment Order dated 30.01.2025 passed under Section 73 of the respective GST Enactments.

6. Following the consistent view, this Court is inclined to remit the case

back to the 2nd Respondent to pass a fresh order after hearing the Petitioner subject to the Petitioner depositing another 15% of the disputed tax in cash over and above the 10% already pre-deposited at the time of filing an an appeal before the 1st Respondent within a period of 30 days from the date of receipt of copy of this order,

7. The Petitioner shall also file a detailed reply by treating the impugned order dated 30.01.2025 as an addendum to the notice in DRC-01 dated 26.11.2024.

8. The 2nd Respondent shall proceed to pass a fresh order subject to the Petitioner complying with the stipulated conditions. In case, the Petitioner fails to comply with any of the stipulated conditions, the Respondents is at liberty to proceed against the Petitioner in the manner known to law as if this Writ Petition was dismissed *in limine* today.

9. Accordingly, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

22.09.2023

Index : Yes/No
Neutral Citation : Yes/No
AT

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C.SARAVANAN, J.

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