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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-09-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 35887 of 2025
AND
WMP NO. 40136 OF 2025,WMP NO. 40133 OF 2025

1. Tvl Cake One Sweets N Bakes Rep
by its Proprietor Mr KP Babu Raj
573/1, Ayanambakkam Main Road, ICF
Colony, Ambattur, Chennai 600 056.

Petitioner(s)

Vs

1. The Deputy Commissioner (CT)
GST Appeals Chennai II
Gst Appeal Chennai Ii, Greams Road,
Chennai 600 006.

2.The Assistant Commissioner (ST)
(FAC) Nolambur Assessment Circle
Room No.333, 3rd Floor, Nandanam,
Chennai 600035

Respondent(s)

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PRAYER

to call for the records of the 2nd Respondent in order dated 01.02.2025 in

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GSTIN 33ASAPB7292H1ZY/2017-18 bearing Reference No. ZD330225004835P and the consequential rejection of appeal order dated 21.08.2025 in FORM GST APL-02 bearing Reference No. ZD330825235452G passed by the 1st Respondent and quash the same as illegal, arbitrary and in violation of principle of natural justice.

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For Petitioner(s): C Rekhakumari
Praveen Kumar Jain
Nandhakumar R
Darshita R

For Respondent: Mrs. P. Selvi
Government Advocate

ORDER

Mrs. P. Selvi, 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 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 assessment Order dated 01.02.2025 passed by the 2nd Respondent for the tax

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period from April 2017 - March 2018. The impugned order was preceded by a show cause Notice in DRC-01 dated 04.12.2024.

4. The petitioner filed an appeal against the aforesaid impugned assessment order before the appellate authority viz., the first respondent, beyond the condonable period of limitation on 28.07.2025, which has now been rejected by the 1st respondent vide impugned order dated 21.08.2025 on the ground of limitation.

5. The learned Government Advocate appearing for the respondents submit that the petitioner, having failed to respond to the notice in DRC-01 dated 04.12.2024 and having filed the appeal belatedly, beyond the statutory period of limitation, was not serious about the issue and has, thus, filed the present writ petition to revive a stale issue.

6. Learned Government Advocate for the Respondents would also submit that this Writ Petition is liable to be dismissed as the Petitioner has left over the

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rights in terms 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.

7. That apart, it is submitted that the Petitioner has not substantiated the case with any documents and therefore, on this count also, this Writ Petition is liable to be dismissed.

8. Having considered the submissions made by the learned counsel for the Petitioner and the learned Government Advocate for the Respondents and having considered the consistent view taken by this Court in similar circumstances, I am of the view that the challenge to order dated 21.08.2025 passed by the office of the first respondent, rejecting the appeal against the order dated 01.02.2025 cannot be interfered with in the light of the well settled

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principles of law rendered by the Honourable 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.

9. However, I am inclined to come to the partial rescue of the petitioner by remitting the case back to the 2nd Respondent to pass a fresh order *de novo,* 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.

10. The aforesaid 25% of the disputed tax shall be deposited by the Petitioner 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.

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11. The Petitioner shall file a detailed reply to the Show Cause Notice in GST DRC-01 dated 04.12.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 01.02.2025 of the 2nd Respondent as an addendum to the same, within a period of fifteen (15) days from the date of receipt of a copy of this order.

12. Subject to the Petitioner complying with the above stipulated conditions, the 2nd 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.

13. It is also submitted by the learned counsel for the Petitioner that the entire disputed tax amount has already been recovered from the petitioner. Therefore, the deposit of 25% shall be subject to verification. In case, the entire disputed tax amount has already been recovered from the petitioner, no further deposit is required to be made as a pre-condition for passing the *de novo* order as ordered above.

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14. 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.

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

16. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

24-09-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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HIGH COURT OF JUDICATURE MADRAS
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To

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C.SARAVANAN J.

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