IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 24-09-2025**

CORAM

**THE HONOURABLE MR JUSTICE C. SARAVANAN**

**WP No. 36509 of 2025**
**AND**
**WMP NO. 40841 OF 2025,WMP NO. 40842 OF 2025,WMP NO. 40833 OF 2025,WMP NO. 40836 OF 2025**

1. Mohammed Inamullah,
Proprietor Of Shaik Abdul Azeez And Sons, No.77/1, First Floor A5, East Madha Church Street, Royapuram, Chennai, Tamil Nadu-600013

Petitioner(s)

Vs

1. Commercial Tax Officer,
Royapuram Assessment Circle,Room No.213,Integrated Commercial Taxes Buildings,Elephant Gate Bridge Road,Periyamet,Chennai 600 003,Tamilnadu,India

2.Deputy Commissioner (ct),
Gst Appeal Chennai-1 Ct Main Building, 2nd Floor, Greams Road, Chennai 600 006, Tamilnadu

3.Deputy Commissioner (st),
North Ii, Chennai North Division,

Integrated Commercial Taxes Building,
No. 32, Elephant Gate Bridge Road,
5th Floor, Room No.510, Chennai 600
003, Tamilnadu

4.The Branch Manager,
Indian Bank, No. 386, Panneer Nagar,
Mogappair, Chennai 600 037

Respondent(s)

**PRAYER**

to call for the records on the file of the Respondents and quash the Impugned Order under section 73 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 including the Summary of the Order in Form GST DRC-07 dated 14.02.2025 and having Reference Number ZD330225140957C and its annexure dated 14.02.2025 in GSTIN.33AFTPM2473F2Z9 passed by the First Respondent for FY 2020-21 along with the acknowledgement in Form GST APL-02 dated 13.08.2025 having Reference Number ZD330825136201R issued by the Second Respondent under Rule 108 of Central Goods and Services Tax Rules, 2017/ Tamil Nadu Goods and Services Tax Rules, 2017 for the FY 2020-21

For Petitioner(s): N.V. Balaji
Nv.Lakshmi
N V Narayanan
N V Krishnan

For Respondent: Mrs. K. Vasanthamala
Government Advocate

## ORDER

Mrs. K. Vasanthamala, 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 14.02.2025, which precedes a Show Cause Notice in GST DRC-01 dated 25.11.2024 for the Tax Period between April 2020 and March 2021.

4. It is the specific case of the petitioner that the petitioner has filed an appeal against the order dated 14.02.2025, which was rejected by the second respondent on 13.08.2025.

5. Reading of the impugned Assessment Order dated 14.02.2025 indicates that the Petitioner has not participated in the assessment proceedings by filing a reply to the Show Cause Notice in GST DRC-01 dated 25.11.2024 and therefore, the demand has been confirmed against the Petitioner.

6. The Petitioner was also issued with Reminders on 27.12.2024 and 23.01.2025, called upon to file a reply and to appear for a personal hearing. On receiving the same, the Petitioner neither filed any reply nor appeared for the personal hearing fixed.

7. The learned counsel for the petitioner also submits that the petitioner could not file any reply to the show cause notice in GST DRC-01 dated 25.11.2024, as the accountant of the petitioner was suffered from cancer and unfortunately died on 18.04.2025 and thus, the petitioner was unaware of the show cause notice in GST DRC-01 dated 25.11.2024 and the order passed on 14.02.2025.

8. It is submitted by the learned counsel for the petitioner that only after recovery proceedings were initiated by the office of the third respondent on 22.07.2025, the petitioner approached the second respondent by way of an appeal on 31.07.2025.

9. It is submitted by the learned counsel for the Petitioner that the Petitioner be given one chance to substantiate the case. The demand has been confirmed against the Petitioner merely because the Petitioner failed to respond to the Show Cause Notice in GST DRC-01 dated 25.11.2024.

10. The learned Government Advocate for the Respondents on the other hand would submit that this Writ Petition is devoid of merits and is liable to be dismissed in the light 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.**

11. 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.

12. It is further submitted by the learned Government Advocate appearing for the Respondents that the appeal was filed beyond the condonable period of limitation under Section 107 of the respective GST enactments and therefore, the second respondent has dismissed the appeal vide order dated 13.08.2025.

13. It is noticed that under similar circumstances, this Court has come to the rescue of the persons like the Petitioner by quashing the impugned Assessment Order on terms subject to the Petitioner depositing 25% of the disputed tax. I do not find any extenuating reason to take a different stand in this case.

14. 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 of the order dated 13.08.2025 passed by the second respondent, rejecting the appeal on the ground that the same was filed beyond the condonable period of limitation, does not warrant any interference in the light of the decisions of the Honourable Supreme Court cited supra.

15. Having considered the fact that the petitioner has not filed a reply to the notice in GST DRC-01 dated 25.11.2024, following the consistent view taken by this Court in similar circumstances, the impugned Assessment Order dated 14.02.2025 is quashed and the case is remitted back to the first 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.

16. It is also submitted by the learned counsel for the Petitioner that the petitioner has also deposited 10% of the disputed tax confirmed vide order dated 14.02.2025 when filing the appeal on 31.07.2025. Therefore, the deposited amount shall be adjusted / set off for the purpose of pre-depositing in the pre-conditional order, subject to verification.

17. The Petitioner shall file a reply to the Show Cause Notice in GST DRC-01 dated 25.11.2024 together with requisite documents to substantiate the case by treating the impugned Assessment Order dated 14.02.2025 as an addendum to the Show Cause Notice dated 25.11.2024 within a period of thirty (30) days from the date of receipt of a copy of this order.

18. In case the Petitioner complies with the above stipulated conditions, the Respondents shall proceed to pass a fresh order *de novo* 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 petitioner's bank account shall also

stand raised.

19. In case the Petitioner fails to comply with any of the conditions stipulated above, the Respondents are at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today. Thereafter, it is for the Respondents to take steps against the Petitioner to recover the tax that has been confirmed in the impugned Assessment Order.

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

21. It is made clear that the Petitioner shall co-operate with the Respondents in the *de novo* proceedings.

22. 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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**WP No. 36509 of 2025**

To

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**C.SARAVANAN J.**

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