IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-09-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 36587 of 2025
AND
WMP NO. 40896 OF 2025,WMP NO. 40895 OF 2025

1. Tvl.Cashewking Nut and Commodites
Rep. by its Proprietor, Thiru Ashok Kumar Jain, No.48, Strotten Muthia Mudali Street, Sowcarpet, Chennai-600 079

Petitioner(s)

Vs

1. State Tax Officer
Sowcarpet Assessment Circle,
Integrated Commercial Taxes Building,
Room No.302, No.32, Elephant Gate,
Bridge Road, Vepery, Chennai-600 003.

2.Deputy Commissioner ST
GST Appeal, Chennai -1,Main Building, II Floor,Room No.210, No.1,
Greams Road, Chennai-600 006

Respondent(s)

WMP No. 40896 of 2025

1. Tvl.Cashewking Nut and
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Rep. by its Proprietor, Thiru Ashok
Kumar Jain, No.48, Strotten Muthia
Mudali Street, Sowcarpet, Chennai-600
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PRAYER

calling for the impugned order of the first respondent dated 16.09.2024 having reference number ZD330924104378C and appeal rejection order having reference number ZD330525030392R dated 06.05.2025 passed by the 2nd respondent for the assessment year 2022-23 and quash the same as illegal and devoid of merits

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PRAYER

to grant an order of interim stay for the operation of the impugned proceedings including any recovery consequent upon the impugned order on the file of the first respondent having reference number ZD330924104378C dated 16.09.2024 for the assessment year 2022-23 pending dispsoal of this above writ petition

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PRAYER

to dispense with the production of the original copy the impugned order of the first respondent dated 16.09.2024 having reference number ZD330924104378C and appeal rejection order of the second respondent having reference number ZD330525030392R dated 06.05.2025 for the assessment year 2022-23 respectively along with the writ petition

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For Petitioner(s): T Suresh
T.Yazhini
S.Sanjay

For Respondent: Mr. TNC Kaushik
Additional Government Pleader

ORDER

Mr. TNC 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. In this Writ Petition, the Petitioner has challenged the impugned Order dated 16.09.2024 passed by the 1st respondent and the Order dated 06.05.2025 of the 2nd respondent, whereby the appeal of the Petitioner against the aforesaid Order dated 16.09.2024 has been rejected.

4. The Petitioner had been issued with a Show Cause Notice in GST DRC-01 dated 18.04.2023 for the Tax Period between April 2022 and March 2023. The Petitioner however failed to respond to the same and thus suffered impugned Order dated 16.09.2024. An appeal against the same was filed before the Appellate Authority after a lapse of 75 days.

5. At the time of filing of the appeal, the Petitioner has deposited 10% of the disputed tax. However, since the appeal was filed beyond the condonable period, the same was rejected by the 2nd respondent on 06.05.2025.

6. Learned counsel for the Petitioner submits that the impugned Orders dated 16.09.2024 and 06.05.2025 of the 1st respondent and the 2nd respondent respectively are arbitrary as the demand has been confirmed merely because the Petitioner has failed to respond to the Show Cause Notice in GST DRC-01 dated 18.04.2023.

7. The learned Additional Government Pleader for the Respondents on the other hand would submit that this Writ Petition is liable to be dismissed as the Petitioner has left over the 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.

8. 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.

9. Having considered the submissions made by the learned counsel for the Petitioner and the learned Additional Government Pleader for the Respondents and having considered the consistent view taken by this Court in similar

circumstances, this Court is inclined to come to the rescue of the Petitioner by quashing the impugned Order dated 16.09.2024 of the 1st respondent and the impugned Order dated 06.05.2025 of the 2nd respondent on terms subject to the Petitioner depositing 25% of the disputed tax, which includes 10% of the disputed tax, which was already deposited by the Petitioner at the time of filing of the appeal before the Appellate Authority, subject to verification.

10. The remaining 15% 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.

11. The Petitioner shall file a detail reply to the Show Cause Notice in GST DRC-01 dated 18.04.2023 together with requisite documents to substantiate the case by treating the impugned Order dated 16.09.2024 of the 1st respondent and the impugned Order dated 06.05.2025 of the 2nd respondent as 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 1st 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. Subject to the Petitioner complying with the above stipulated conditions, the attachment of the bank account of the Petitioner shall also stand raised.

13. In case the Petitioner fails to comply with any of the conditions stipulated above, the 1st 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.

14. Needless to state, before passing any such order, the 1st respondent shall give due notice to the Petitioner.

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

26-09-2025

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

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C.SARAVANAN J.

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