IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 36646 of 2025
and
W.M.P. Nos. 40970 and 40972 of 2025

M/s. A K Engineers and Contractors,
Represented by its Proprietor,
K. Anandkumar ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Kodumudi Assessment Circle,
Erode.

2.The Deputy Commissioner (CT),
On behalf of the Appellate authority,
Erode. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings passed by the 1st Respondent in the Order vide GSTIN:33AAKFA6849HIZA / 2019-20 dated 11.07.2024 along with consequential proceeding under Section 73 of the Act Form GST DRC-07 vide reference number : ZD330724149308A dated 11.07.2024 along with the order of rejection of appeal vide Form GST APL 02 bearing reference

No.ZD330325160844F dated 21.03.2025 issued by the 2nd respondent for the Assessment Year 2019-2020 and to quash the same.

For Petitioner	:	Ms. R. Hemalatha
For Respondents	:	Mr. C. Harsharaj, Special Government Pleader

<u>O R D E R</u>

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 challenged the impugned order dated 11.07.2024 which preceded a notice in DRC-01 dated 08.12.2023 for the tax period between April 2019-March 2020.

3. The Petitioner unsuccessfully filed an appeal before the Appellate Authority on 11.12.2024 which is beyond the condonable period of limitation with a delay of 34 days. Thus, the 2nd Respondent has rejected the appeal of the Petitioner vide order dated 21.03.2025.

4. It appears that there was a partial delay in filing the appeal and it has been filed beyond the condonable period of limitation of 34 days. The Petitioner has already deposited 10% of the disputed tax. It is noticed that the order dated 11.07.2024 has been passed for the tax period 2020-2021. It was preceded by a notice in DRC-01 dated 08.12.2023. The Petitioner has not replied to the Show Cause Notice nor participated in the personal hearing inspite of the reminders sent by the Respondents and thus, has suffered the impugned order dated 11.07.2024.

5. 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.

6. 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 08.12.2023 which preceded the Assessment Order dated 11.07.2024 passed under Section 73 of the respective GST Enactments.

7. Following the consistent view in this regard, the case is remitted back to the 1st 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.

8. The Petitioner shall also file a detailed reply by treating the impugned order dated 11.07.2024 as an addendum to the notice in DRC-01 dated 08.12.2023.

9. The 1st Respondent shall thereafter proceed to pass a fresh order subject to the Petitioner complying with the above stipulation. The Bank Account of the Petitioner which has been attached vide impugned notice shall be lifted on such payment. In case, the Petitioner fails to comply with any of the stipulated conditions, the 1st Respondent is at liberty to proceed against the Petitioner in the manner known to law as if this Writ Petition was dismissed *in limine* today by this order.

10. This Writ Petition stands disposed of with the above observations. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

24.09.2025

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

To
1.The Assistant Commissioner (ST),
Kodumudi Assessment Circle,
Erode.

2.The Deputy Commissioner (CT),
On behalf of the Appellate authority, Erode.

C.SARAVANAN, J.

AT

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