IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.37277 of 2025
and
W.M.P.Nos.41705 and 41707 of 2025

Tvl.Sun Moon Trading Company,
Represented by its Proprietor
Rizwan Ali ... Petitioner

Vs.

1.Assistant Commissioner,
Alandur III,
Chennai South,
Tamil Nadu.

2.Deputy Commissioner of Commercial
Taxes (Appeals),
Office of the GST Appeal-II,
PAPJM Building, 2nd Floor,
Greams Road, Chennai – 600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the Order in GST APL-02 dated 23.08.2025 bearing Reference No.ZD3308252740478 issued by the 2nd Respondent, to quash the same and direct the 2nd Respondent to restore the Appeal filed by the Petitioner.

For Petitioner : Mr.Adithya Reddy

For Respondents : 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 with the consent of the learned counsel for the Petitioner and learned Government Advocate for the Respondents.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 23.08.2025 whereby the appeal filed by the Petitioner on 21.08.2025, against the Order dated 06.01.2025 passed by the 1st Respondent for the Tax Period 2018-2019 was dismissed by the 2nd Respondent on the ground of limitation.

4. It is noticed that the appeal filed by the Petitioner was beyond the condonable period of limitation. It appears that the appeal was filed with a delay of 138 days.

5. The specific case of the Petitioner is that the Petitioner failed to

notice that the impugned Order has been uploaded in the web portal and therefore went unnoticed and hence the Petitioner filed the appeal belatedly on 21.08.2025 against the Order dated 06.01.2025 with a delay of 138 days i.e., beyond the condonable period of limitation.

6. Learned counsel for the Petitioner submits that the Petitioner is willing to deposit another 25% of the disputed tax over and above 10% of the disputed tax, which was already deposited by the Petitioner at the time of filing of the appeal before the Appellate Authority.

7. Learned Government Advocate 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 Government Advocate for the Respondents and since the Petitioner may have a case on merits, which may warrant a scrutiny by the Appellate Authority, this Court is inclined to dispose this Writ Petition by giving liberty to the Petitioner to deposit 25% of the disputed tax over and above 10% of the disputed tax which was pre-deposited at the time of filing of the appeal, 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. In case the Petitioner complies with the same by depositing 25% of the disputed tax and furnishes the proof of the same with the 2nd Respondent/Appellate Authority, the 2nd Respondent/Appellate Authority shall dispose of the appeal on merits after hearing the Petitioner without reference to the aspect of limitation.

11. In case the Petitioner fails to comply with the condition stipulated above, the Authorities under the Act are at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

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

26.09.2025

Neutral Citation : Yes / No

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To:

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Chennai South,
Tamil Nadu.

2.Deputy Commissioner of Commercial
Taxes (Appeals),
Office of the GST Appeal-II,
PAPJM Building, 2nd Floor,
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C.SARAVANAN, J.

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