IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-11-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 41396 of 2025
AND
WMP NO. 46358 OF 2025,WMP NO. 46359 OF 2025

1. Tvl Grafer Technology Pvt Ltd
205, Ganesh Street, Athipet,Ambattur,
Chennai 600 058

Petitioner(s)

Vs

1. The Assistant Commissioner (state)
Ambattur Industrial Estate Assessment
Circle, 3rd Floor, Integrated
Commercial Taxes Buildings,
Nandanam, Chennai-600 035

Respondent(s)

PRAYER

calling for the records pertaining to order dated 11.01.2025 issued in Form GST DRC 07 bearing Reference No. ZD330125099949T and quash the same and to direct the appellate authority to condone the delay of 170 days as on 27.09.2025 in filing the appeal before the appellate authority and to hear the dispute on merits

For Petitioner(s): C Bosco
B.Raseetha Banu
Divya.M

For Respondent: Mr. V. Prashanth Kiran
Government Advocate

ORDER

Mr. V. Prashanth Kiran, learned Government Advocate takes notice for the Respondent.

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 Respondent.

3. In this Writ Petition, the Petitioner has challenged the impugned Order in FORM GST DRC-07 dated 11.01.2025 of the Respondent, which was preceded by a Show Cause Notice in GST DRC-01 dated 06.06.2023 for the tax period between April 2021 and March 2022, wherein the Petitioner was also called upon to appear for personal hearing.

4. The Petitioner however did not file any reply to the Show Cause Notice in GST DRC-01 dated 06.06.2023. Thus, the impugned Order has been passed.

5. The learned Government Advocate for the Respondent 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.***

6. 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.

7. Under similar circumstances, Orders have been quashed and cases have been remitted back to pass a fresh order on terms subject to such Assessee depositing 25% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

8. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order 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.

9. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 06.06.2023 together with requisite documents to substantiate the case by treating the impugned Order dated 11.01.2025 as an addendum to the Show Cause Notice dated 06.06.2023.

10. Amount which has already recovered from the Petitioner shall be adjusted towards pre-deposit of 25% of the disputed tax as ordered above. This will be however subject to verification by the Respondent.

11. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

12. In case the Petitioner fails to comply with any of the stipulations, the 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.

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

14. It is made clear that recovery of 25% of the disputed tax ordered above pertains only to the impugned Order dated 11.01.2025.

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

06-11-2025

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

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To

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C.SARAVANAN J.

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