IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.41756 of 2025
and
W.M.P.No.46806 of 2025

M/s.Complete Solutions
Rep by Proprietor
Dhilip Kumar ... Petitioner

Vs.

The Joint Commissioner (Appeals)
Office of the Commissioner of GST &
Central Excise (Appeals),
Coimbatore,
6/7, ATD Street, Race Course Road,
Coimbatore – 641 018. ... Respondent

Prayer: Writ Petition 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 Order vide APL – 04 bearing A.No.82/2024-GST-JC-CBE-DIN 20250559KV00006126B6 dated 29.08.2025 passed by the Respondent herein to quash the same.

For Petitioner : M/s.B.Revathi

For Respondent : Mr.Sai Srujan Tayi
Senior Standing Counsel

ORDER

Mr.Sai Srujan Tayi, learned Senior Standing Counsel takes notice for the Respondent.

2. In this Writ Petition, the Petitioner has challenged the impugned Order in Appeal No.CBE-CGST-JC-APP-103/2025 in File No.82-2024-GST-JC-CBE.

3. By the impugned order, the Petitioner's appeal against Order No.51/2023 (DC) was filed on 06.03.2024 has been rejected on the ground of limitation by placing reliance on the following two decisions of the Hon'ble Supreme Court with the following observations:-

(i) ***Singh Enterprises*** *Vs.* ***Commissioner of Central Excise, Jamshedpur*** *2008 (221) E.L.T.163(SC) has observed that Commissioner (Appeals) is not vested with the power to condone the delay beyond the permissible period provided under the statute.*

(ii) The Hon'ble Apex Court in the case of ***Assistant Commissioner (CT) Ltu, Kakinada & Ors*** *Vs.* ***M/s.Glaxo Smith Kline Consumer Health Care Ltd****, 2020 (5) TMI 149 – Supreme Court has observed in Para 19 that "Since the statutory period specified for filing an appeal had expired long back in August 2017 itself and appeal came to be filed by the respondent only on 24.09.2018, without substantiating the plea about inability to file an appeal within the prescribed time, no indulgence could be shown to the Respondent at all."*

4. The learned counsel for the Petitioner submits that the Petitioner was served only with the summary of the Order-in-Original No.51/2023 (DC) dated 31.08.2023, in Form GST DRC - 07 on 30.12.2023. Though detailed order was furnished to the Petitioner on 27.12.2023 and therefore there was no delay in filing the appeal.

5. On the other hand, the learned Senior Standing Counsel for the

Respondent would state that the Petitioner has only produced photo copy of the Order-in-Original on 28.12.2023 and thus appeal that was filed on 06.03.2024 was beyond the limitation prescribed under Section 107 of the respective GST enactments.

6. I have considered the submissions made by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent.

7. The learned counsel for the Petitioner has also produced the Original of the Postal Cover sent by the Respondent to communicate the Order-in-Original No.51/2023 (DC) dated 31.08.2023. Considering the fact that there are no other records indicates that Order-in-Original No.51/2023 (DC) dated 31.08.2023 was indeed served earlier, therefore presumption can be drawn that it was received by the Petitioner only on 30.12.2023. That apart for filing appeal, date of GST R – 7 is relevant as the system will automatically reckoned the same.

8. Considering the same, the dismissal of the appeal on the ground of limitation cannot be countenanced. Hence, the impugned order passed by the Respondent is set aside and the case is remitted back to the Respondent to pass a fresh order on merits and in accordance with law.

9. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petition is closed.

03.11.2025

Neutral Citation : Yes / No

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To:

The Joint Commissioner (Appeals)
Office of the Commissioner of GST &
Central Excise (Appeals),
Coimbatore,

6/7, ATD Street, Race Course Road,
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C.SARAVANAN, J.

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