IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.42368 of 2025
and
W.M.P.No.47347 of 2025

Tvl. CG Lifespace LLP
through represented by its partner Mr.Haresh Patel
13th, No.1302, Pine Wood, Rajiv Gandhi Salai,
Egathur, Kancheepuram,
Tamil Nadu – 603103. ... Petitioner

Vs.

1. The Deputy Commissioner (ST) (FAC),
   O/o. The Deputy Commissioner (ST),
   GST Appeal-II, Commercial Taxes Department,
   Main Building, 2nd Floor, Room No.211,
   Greams Road, Chennai – 600006.

2. The Assistant Commissioner (ST),
   Kelambakkam Assessment Circle,
   1st Floor, Room No.46, Greenways Road,

Chennai – 600028. ... Respondents

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Impugned Order dated 21.08.2025 with Reference No.ZD3308252318390 in Form GST APL-02 issued by the 1st respondent against the petitioner's appeal filed with ARN: AD330725110356B, and to quash the same, and consequently direct the 1st respondent to consider and dispose of the aforesaid appeal filed by the petitioner in accordance with law.

For Petitioner : Mr.Hemant Shukla

For Respondents : Mr.C.Harsha Raj
Special Government Pleader

ORDER

Mr.C.Harsha Raj, learned Special Government Pleader, takes notice for the respondents.

2. With the consent of the learned counsel for the petitioner and learned Special Government Pleader for the respondents, this Writ Petition is being disposed of at the time of admission.

3. In this writ petition, the petitioner has challenged the impugned Order dated 21.08.2025 passed by the 1st respondent / appellate authority, whereby the petitioner's appeal against the assessment Order in DRC-07 dated 30.08.2024 passed by the 2nd respondent has been rejected on the ground of delay in filing the said appeal.

4. The said appeal was filed by the petitioner on 31.07.2025 with a delay of 242 days beyond the condonable period of limitation prescribed under Section 107 of the respective GST enactments. Therefore, the rejection of the appeal by the 1st respondent / appellate authority on the ground of limitation cannot be interfered with for the reason stated in the impugned Order dated 21.08.2025.

5. The assessment Order dated 30.08.2024 passed by the 2nd respondent pursuant to a notice in DRC-01 dated 20.05.2024 is a detailed order. The petitioner also participated in the proceedings before the 2nd respondent. Therefore, there is no scope for remitting the case back to the 2nd respondent at this stage.

6. The reason for filing the appeal beyond the condonable period of limitation before the 1st respondent / appellate authority is captured in Paragraph No.17 of the appeal, which is reproduced below:

> *"17. If 'Yes' in item 16-*
>
> *a. Period of delay – 242 days.*
>
> *b. Reasons for delay – The delay occurred due to certain unavoidable circumstances beyond our control. We sincerely request you to kindly condone the delay, allow us the necessary relief, and grant us an opportunity to present our case."*

7. The reasons forthcoming in the Affidavit filed in support of the present writ petition read as under:

> *"14.* ***I further submit*** *that one of the Petitioner's partners,* ***Mr. Senthil Kumar D.****, who was entrusted with overseeing the day-to-day business operations and accounting at the branch i.e. 13th, No 1302, Pine Wood, Rajiv Gandhi Salai, Egathur, Kancheepuram, Tamil Nadu, 603103, has not been in contact with the Petitioner for the past several years. The recovery orders and notices issued by the Respondents were received by the said* ***Mr. Senthil Kumar D.****, and due to the lack of communication and loss of contact with him, the Petitioner was not made aware of the said notices or orders in time and, therefore, could not take appropriate action within the prescribed period."*

8. Thus, it is evident that the petitioner was negligent in approaching this Court in a timely manner. Therefore, this writ petition is liable to be dismissed in terms of the decision of the Hon'ble Supreme Court in ***Assistant Commissioner (CT) LTU, Kakinada and others Vs. Glaxo Smith Kline Consumer Health Care Limited [2020 SCC Online SC 440]***.

9. However, considering the fact that the petitioner may have a case before the 1st respondent / appellate authority, and following the consistent view taken by this Court under similar circumstances, and further, taking note of the fact that the petitioner has already deposited 10% of the disputed tax at the time of filing the appeal before the 1st respondent on 31.07.2025, the impugned Order dated 21.08.2025 is quashed and the case is remitted back to the 1st respondent to pass fresh orders on terms subject to the petitioner depositing 40% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of 60 days from today.

10. If the petitioner makes such deposit within such time, the 1st respondent / appellate authority namely Deputy Commissioner (ST) (FAC), shall dispose of the appeal on merits after hearing the petitioner, without reference to the aspect of limitation.

11. In paragraph 15 of the Affidavit filed in support of the present writ petition, the details of the bank account and details of the partners of the petitioner have been furnished.

12. Considering the same, the petitioner is directed to give a suitable letter to the bank to release 40% of the disputed tax and remit the same directly to the office of the 1st respondent / appellate authority towards pre-deposit of the 40% of the disputed tax.

13. It is made clear that bank attachment shall be lifted subject to the deposit of 40% of the disputed tax as ordered above and the petitioner is not in arrears of any other amount barring the amount demanded under the respective impugned order.

14. In case the petitioner fails to comply with any of the above stipulations, the respondents are 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.

15. With these directions, this Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

04.11.2025

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Neutral Citation : Yes / No

To

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   Main Building, 2nd Floor, Room No.211,
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C.SARAVANAN, J.

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