IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.43237 of 2025
and
W.M.P.Nos.48412 and 48414 of 2025

Venus Tapioca Products,
Rep. By its Proprietor Baskaran Selvaraj,
1, Singarapet, Shevapet, Salem,
Tamilnadu, 636 002. ... Petitioner

Vs.

1. The Assistant Commissioner (ST),
Office of Assistant Commissioner,
Annathanapatty Circle, Salem,

2. The Deputy Commissioner (CT)
on behalf of the Appellate Authority
Salem. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records relating to the impugned proceedings passed by the first respondent in the order vide Ref No.GST/33AACFV3839L1ZW/2018-2019 dated 26.04.2024 along with consequential order in FORM GST DRC – 07 bearing ref No.ZD330424243921L, dated 30.04.2024 along with the order of Rejection of application for rectification bearing ref.No:ZD3301252124109 dated 24.01.2025 along with the consequential proceedings of Acknowledgment passed by the second respondent for submission of appeal in FORM GST APL-02 ref.no-ZD330425198696U dated 26.04.2025 and to quash the same.

For Petitioner	:	Ms.R.Hemalatha
For Respondent	:	Mr. V.Prashanth Kiran Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. In this Writ Petition, the Petitioner has challenged the order dated 30.04.2024, in DRC-07 passed for the tax period 2018-2019, the order dated 24.01.2025, whereby the petitioner's application for rectification under Section 161 of the respective GST enactments came to be rejected by the 1st respondent.

3. Thereafter, the petitioner filed a statutory appeal before the Appellate Authority / 2nd respondent on 25.04.2025 against the impugned order dated 30.04.2024. At the time of filing the appeal, the petitioner had not made the mandatory pre-deposit of 10% of the disputed tax, and consequently, the appeal was dismissed by the second respondent by the impugned order dated 26.04.2025 on the ground of limitation.

4. The impugned assessment order dated 30.04.2024 is an exparte order, as the petitioner failed to respond to the Show Cause Notice issued in Form GST DRC – 01 dated 27.12.2023 and thus, suffered the impugned order.

5. The learned counsel for the petitioner submits that the petitioner was diligent in approaching the authorities both under Section 161 and Section 107 of the respective GST enactments as and when a fresh cause of action arose. Therefore, the present writ petition has been filed on 07.11.2025.

6. Per contra, the learned Government Advocate for the respondent submits that the writ petition is devoid on merits, as the petitioner failed to approach the Appellate Authority against the order dated 30.04.2024 within the prescribed time. It is submitted that the petitioner having consciously opted to seek redressal under Section 161 of the respective GST Enactments was fully aware that the scope of rectification under the said provision is limited.

7. It is further by the learned Government Advocate for the respondent submitted that the appeal filed on 25.04.2025 was not only time – barred but was also filed without making the mandatory pre-deposit, thereby indicating lack of *bona fides* on the part of the petitioner, who is a registered person, and hence prays

for the dismissal of this writ petition.

8. The learned Government Advocate further submits that is writ petition has been filed on 07.11.2025, nearly seven months after the impugned order dated 26.04.2025 of the second respondent rejecting the appeal filed by the petitioner has been passed.

9. I have considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

10. This Court cannot grant any premium for prolonging litigation without due diligence, as the conduct of the petitioner indicates a lack of seriousness. The petitioner ought to have approached this Court or the appellate forum immediately after the impugned order dated 26.04.2024 was passed.

11. 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.

12. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue and following the consistent view taken by this Court under similar circumstances, the impugned order is quashed and the case is remitted back to the 1st Respondent to pass a fresh order subject to the Petitioner depositing 50% 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.

13. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in Form GST DRC-01 dated 27.12.2023 together with requisite documents to substantiate the case by treating the impugned Order dated 26.04.2024 as an addendum to the Show Cause Notice dated 27.12.2023.

14. In case the Petitioner complies with the above stipulations, the 1st 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.

15. It is made clear that bank attachment shall be lifted subject to the petitioner depositing 50% of the disputed tax as ordered above and the Petitioner not being in arrears of any amount barring the amount demanded under the impugned Order.

16. 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.

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

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

04.12.2025

Index : Yes/No
Neutral Citation : Yes/No

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To:

1. The Assistant Commissioner (ST),
   Office of Assistant Commissioner,
   Annathanapatty Circle, Salem,

2. The Deputy Commissioner (CT)
   on behalf of the Appellate Authority
   Salem.

C.SARAVANAN, J.

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