IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 43023 of 2025
and
W.M.P. Nos. 48149 & 48150 of 2025

Nallamuthu Sengottuvelu
Represented by its Proprietor,
N.Sengottuvelu,
2-1, Mattampatti, Erumapatti,
Salem, Tamil Nadu – 637 102. ...Petitioner

Versus

The State Tax officer
(also known as the Commercial Tax Officer)
Edapaddi Assessment Circle,
Salem-11, Tamil Nadu. ...Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records on the files of the respondent herein in GSTIN/33DMOPS4370E1ZT/2019-20 in Form GST DRC-07 in Order Reference No.ZD330824278361A dated 29.08.2024 and quash the same.

For Petitioner : M/s.K.Siri Chandana

For Respondent : Mrs.P.Selvi
Government Advocate

ORDER

This Writ Petition is disposed of at the time of admission with the consent of the learned counsel for the Petitioner and the learned Government Advocate, who takes notice on behalf of the Respondent.

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

3. In this Writ petition, the petitioner has challenged the impugned order dated 29.08.2024. The impugned order was passed pursuant to the Show Cause Notice in Form GST DRC-01 issued under Section 73, dated 30.05.2024. The said notice pointed out four defects or deficiencies. Out of these, the demand in respect of three defects has already been dropped, and only one aspect of the demand has been confirmed.

4. Despite the same, the petitioner failed to approach either this Court or to the Appellate Authority within the time prescribed for filing an appeal under Section 107 of the respective GST enactments. The present writ petition has been filed only on 03.11.2025.

5. The learned counsel for the petitioner submitted that the petitioner may be given one more opportunity to file an appeal against the impugned order dated 29.08.2024 and has prayed for the dismissal of this case with such liberty.

6. The learned Government Advocate for the respondent submitted that the present writ petition is liable to be dismissed on account of laches, and the petitioner has failed to exercise the statutory remedy available under Section 107 of the respective GST enactments and has slept over his rights. Therefore, this Writ Petition deserves to be dismissed on the ground of delay and laches.

7. Reliance has been placed on the decisions of the Hon'ble Supreme Court in ***Singh Enterprises*** *Vs.* ***Commissioner of Central Excise, Jamshedpur and others***, reported in ***(2008) 3 SCC 70;*** and in ***Commissioner of Customs and Central Excise*** *Vs.* ***Hongo India Private Limited and another***, reported in ***(2009) 5 SCC 791;*** and also in ***Assistant Commissioner (CT) LTU, Kakinada and others*** *Vs.* ***Glaxo Smith Kline Consumer Health Care Limited***, reported in ***2020 SCC Online SC 440***.

8. Having consider the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, and following the consistent view taken by this Court, liberty is granted to the petitioner to file a statutory appeal before the Appellate Authority, subject to the petitioner depositing the entire (100%) disputed tax amount remaining unpaid. The said amount shall be deposited in cash from the Petitioner's Electronic Cash Ledger 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 file an appeal before the Appellate Authority and also submit a reply to the Show Cause Notice in Form GST DRC-01 dated 30.05.2024 together with requisite documents to substantiate the case, by treating the impugned Order dated 29.08.2024 as an addendum to the Show Cause Notice dated 30.05.2024.

10. 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 from the date of such reply or pre-deposit, whichever is later.

Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

11. 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.

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

13. It is made clear that recovery of entire (100%) of the disputed tax ordered above pertains only to the impugned Order dated 29.08.2024.

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

07.11.2025

Index : Yes/No
Neutral Citation :Yes/No
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To

The State Tax officer
(also known as the Commercial Tax Officer)
Edapaddi Assessment Circle,
Salem-11, Tamil Nadu.

C.SARAVANAN, J.

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