IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2025

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 48591 of 2025
and W.M.P. Nos.54252 & 54253 of 2025

M Sundardas and Sons,
Represented by its Partner and Authorized Signatory
Mr Hassanand Sundardas,
No. 124, Kurumber Street,
Salem-636 007.

..Petitioner(s)

Vs

1. Assistant Commissioner,
   Salem Town (west), GST Commissionerte,
   Integrated Commercial Taxes Building,
   Pitchards Road, Hasthampatty, Salem-636 007.

2. Deputy Commissioner CT,
   Integrated Commercial Tax Building,
   GST Commissionerate, Pitchard Road,
   Hasthampatty, Salem.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order in Form GST APL-02 dated 08.10.2025 bearing reference ZD331025054306T issued by the 2nd Respondent, to quash the same and direct the 2nd Respondent to restore the Appeal filed by the Petitioner.

For Petitioner(s): M/s.Disha Jain

For Respondent(s): Mrs.P.Selvi,
Government Advocate

O R D E R

Mrs.P.Selvi, learned Government Advocate takes notice for the Respondent.

2.This Writ Petition is being disposed of at the stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Government Advocate for the Respondent.

3.The Petitioner is before this Court against the impugned order in appeal dated 08.10.2025, whereby the Petitioner's appeal against the Assessment order dated 26.02.2025 has been rejected on the ground of limitation. Finding in the aforesaid Assessment order dated 26.02.2025 is extracted below:

> *"GST DRC-01 has been issued to the tax payer on 26.11.2024 under Section 73 of TNGST Act, 2017. But, the taxpayer reply not satisfied to the issued show cause notice. So, I confirm the assessment order under Section 73(9) of TNGST Act, 2017."*

4.The impugned order was passed after extracting the summary of the reply of the Petitioner dated 14.12.2024. Since the Petitioner's reply was not considered properly, the Petitioner moved an application for rectification on 31.03.2025, which came to be rejected on 16.09.2025.

5.It is in this background, the Petitioner filed an appeal on 30.09.2025, which has now been rejected vide impugned order dated 08.10.2025 by the 2nd respondent/Appellate Commissioner.

6.It is noticed that the Petitioner had already pre-deposited 10% of the disputed tax that was confirmed vide impugned order dated 26.02.2025.

7.It is also noted that the Petitioner had not opted for a personal hearing in response to the Show Cause Notice in DRC-01 dated 26.11.2024 at the time of filing reply on 14.12.2024. The reply *prima-facie* appears to be inadequate reply and perhaps on account of the same, the assessment order has been passed rejecting the defence of the Petitioner.

8.In any event, it was incumbent on the part of the Respondents to have given a proper finding and if desired, the Petitioner may have been called for a personal hearing if the reply was unintelligible or insufficient. Equally, it was incumbent on the part of the Petitioner to have opted for personal hearing particularly when the substantial demand was made at the notice that preceded the notice in DRC-01 dated 26.11.2024.

9.Therefore, to balance the interest of the Petitioner and the Respondents, the case is remitted back to the 1st Respondent to redo the exercise afresh, subject to Petitioner depositing another 15% 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, over and above the 10% already deposited at the time of filing of the appeal on 30.09.2025.

10.Any amount already recovered/paid by the Petitioner towards the tax liability confirmed under the impugned order shall be adjusted towards the pre-deposit of 15% as ordered above, subject to verification.

11.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 vacated.

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

13.In case the Petitioner fails to comply with any of the 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.

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

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

18-12-2025

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

GSA

C.SARAVANAN, J.

GSA

To

1. Assistant Commissioner,
   Salem Town (west), GST Commissionerte,
   Integrated Commercial Taxes Building,
   Pitchards Road,
   Hasthampatty, Salem-636 007.

2. Deputy Commissioner CT,
   Integrated Commercial Tax Building,
   GST Commissionerate, Pitchard Road,
   Hasthampatty, Salem.

WP No. 48591 of 2025

and W.M.P. Nos.54252 & 54253 of 2025

18-12-2025