BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.05.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)Nos.14282 to 14284 of 2025
and
W.M.P.(MD)Nos.10501, 10505 to 10507, 10509 of 2025

W.P(MD)No.14282 of 2025:

Thankiyan Georgestephen,
GSTN:33AEQPG1643B1ZZ,
12-4, Karumanvilai Bethelpuram,
Kanyakumari – 629 803. ... Petitioner in all cases

vs.

1.The Joint Commissioner of GST and
Central Excise (Appeals),
Office of the Commissioner of GST and
Central Excise (Appeals) Coimbatore,
Circuit Bench at Madurai,
No.4 Lal Bahadur Sasthri Road,
GST Bhawan, Bibikulam, Madurai-625 002.

2.The Assistant Commissioner of CGST and
Central Excise,
Tirunelveli CGST and Central Excise Division,
Central Revenue Building,
Tractor Road, NGO 'A' Colony,
Tirunelveli-627 007.

3.Superintendent of CGST and Central Excise,
Marthandam Range, 48/1-4, First Floor,
Sivaraj Building, Tower Junction,
Nagercoil-629 001. ... Respondents in all cases

PRAYER in W.P(MD)No.14282 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in order in Appeal No.MDU-CGST-JC-APP-18/2025, dated 30.01.2025 and consequential distrain proceedings issued by the 3rd respondent in O.C.No.140 of 2025, dated 25.04.2025 and to quash the both as cryptic, non-speaking, illegal , arbitrary, wholly without jurisdiction and to direct the 1st respondent to take up the appeal filed in A.No.202/2023-GST and pass order afresh on merits and in accordance with law.

PRAYER in W.P(MD)No.14283 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in order in Appeal No.MDU-CGST-JC-APP-19/2025, dated 30.01.2025 and consequential distrain proceedings issued by the 3rd respondent in O.C.No.140 of 2025, dated 25.04.2025 and to quash the both as cryptic, non-speaking, illegal , arbitrary, wholly without jurisdiction and to direct the 1st respondent to take up the appeal filed in A.No.203/2023-GST and pass order afresh on merits and in accordance with law.

PRAYER in W.P(MD)No.14284 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in order in Appeal No.MDU-CGST-JC-APP-20/2025, dated 30.01.2025 and consequential distrain proceedings issued by the 3rd respondent in O.C.No.140 of 2025, dated 25.04.2025 and to quash the both as cryptic, non-speaking, illegal , arbitrary, wholly without jurisdiction and to direct the 1st respondent to take up the appeal filed in A.No.204/2023-GST and pass order afresh on merits and in accordance with law.

In all cases:

For Petitioner : Mr.N.Sudalai Muthu

For Respondents : Mr.N.Dilip Kumar

ORDER

The present Writ Petitions have been filed for the issuance of a Writ of Certiorarified Mandamus, challenging the rejection of appeal based on the limitation and to direct the 1st respondents to take up the appeals and pass fresh orders.

2.According to the petitioner, appeal has to be filed within a period of 90 days and the respondents have stated that there is a delay of three days from the date of assessment order, dated 29-05-2023. The contention of the petitioner is that even though the assessment order is dated 29-05-2023, physically it was dispatched on 31-05-2023. Further, for three assessment years 2017-2018, 2018-2019 and 2019-2020, a common assessment order is passed. It is a settled principle that for each assessment year, the respondents are bound to pass separate assessment orders. When that was pointed out, the respondents have filed a summary proceedings on 18-08-2023. If that has been taken into account, the petitioner is well within the limitation period.

3.The learned Counsel appearing for the respondents prayed to put the petitioner on terms. The learned Counsel appearing for the petitioner submitted that already 10% has been deposited. Therefore, the same can be considered as deposit for filing the appeal. Therefore, this Court is not inclined to further increase the deposit.

4.The earlier assessment order was physically dispatched on 31-05-2023. If that is also taken into account, the petitioner's appeal is well within the period of limitation. Therefore, as such, there is no question of delay in filing at all. Therefore, the impugned orders are set aside. The respondents are directed to take the appeal on file and hear it on merits and pass orders at the earliest.

5.With the above observations, this Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

22.05.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

Tmg

S.SRIMATHY, J.

Tmg

ORDER MADE IN
W.P(MD)Nos.14282 to 14284 of 2025

DATED : 22.05.2025