BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD).No.16649 of 2025
and
W.M.P.(MD).No.12640 of 2025

M/s.M R Pro Tech Private Limited,
Represented by its Managing Director,
M.Ravi. .. Petitioner

Vs.

1.The Additional Commissioner,
Office of the Commissioner of CGST and Central Excise,
Central Revenue Building,
No.4, Lalbhadur Shastri Road,
Bibikulam,
Madurai – 625 002.

2.The Commissioner of CGST and Central Excise (Appeal),
Office of the Commissioner of CGST and Central Excise,
Central Revenue Building,
No.4 Lalbhadur Shastri Road,
Bibikulam,
Madurai – 625 002. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the 1st respondent vide his order No. MDU/GST/ADC/16/2024 dated 06.12.2024 (Tax period March 2021 to October 2021) and quash the same as it is illegal, without jurisdiction and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of the GST Act.

For Petitioner	:	Mr.A.Satheesh Murugan
For Respondents	:	Mr.R.Gowri Shankar Senior Standing Counsel

ORDER

The petitioner has challenged the impugned order dated 06.12.2024. Although the aforesaid order was reportedly uploaded on 08.01.2025, an appeal ought to have been filed within a period of three months or with an application to condone the delay within a period of 30 days thereafter. However, the petitioner left over the rights and has now approached this Court against the impugned order dated 06.12.2024.

2. Specifically, it is the case of the petitioner that the notice in DRC-01 dated 07.02.2024 was replied back and before the impugned order was passed on 06.12.2024, the petitioner has paid the tax for the tax period between March 2021 to October 2021. It is the case of the petitioner that the respondents have wrongly imposed penalty under Section 122(2)(a) read with Section 73(9) of the respective GST enactments apart from imposing penalty under Section 125 of

the Act and therefore, submits that the impugned order is liable to be quashed.

3. On the other hand, the learned Senior Standing Counsel for the respondents would submit that the Writ Petition is liable to be dismissed in view of the decision of the Hon'ble Supreme Court in the case of ***Assistant Commissioner (CT), LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited,*** reported in ***2020 SCC Online SC 440.***

4. At this stage, the learned counsel for the petitioner submits that the petitioner may be given liberty to challenge the order before the Appellate Commissioner, although the appeal would be time barred at this distance of time by few days as the appeal would be filed beyond the condonable period of limitation under Section 107 of the respective GST enactments.

5. The learned Senior Standing Counsel for the respondents would submit that the prayer sought for by the learned counsel for the petitioner at this stage is contrary to the decisions of the Hon'ble Supreme Court in the case of ***Singh Enterprises Vs CCE*** reported in ***(2008) 3 SCC 70*** and in the case of ***CCE and Customs Vs.Hongo India (P) Limited*** reported in ***(2009) 5 SCC 791***.

6. Considering the arguments advanced by the learned counsel for the petitioner and the respondents, *prima facie*, there are no merits in the Writ Petition and therefore, this Writ Petition is liable to be dismissed. However, since the petitioner seeks to pursue the alternate remedy by way of an appeal, there shall be a direction to the second respondent to entertain the appeal on merits, provided the petitioner files such an appeal within a period of fifteen (15) days from the date of receipt of a copy of this order and makes appropriate pre-deposit, as is required under Section 107 of GST Act within such period. In case the petitioner complies with the above requirements, the second respondent/Appellate Commissioner shall dispose of the appeal on merits on its turn.

7. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

20.06.2025

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

To

1.The Additional Commissioner,
Office of the Commissioner of CGST and Central Excise,
Central Revenue Building,
No.4, Lalbhadur Shastri Road,
Bibikulam,
Madurai – 625 002.

2.The Commissioner of CGST and Central Excise (Appeal),
Office of the Commissioner of CGST and Central Excise,
Central Revenue Building,
No.4 Lalbhadur Shastri Road,
Bibikulam,
Madurai – 625 002.

C.SARAVANAN,J.

Lm

W.P.(MD).No.16649 of 2025

20.06.2025