BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.06.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 17127 of 2025
and
W.M.P.(MD) Nos.12992 to 12994 of 2025

Srimuthu Vinaiyaga Agencies ... Petitioner

Vs

The State Tax Officer,
Commercial Tax Building,
Uthamapalayam Assessment Circle,
Main Bazaar, Opp. Sri Kannikaparameshwari Koil,
Uthamapalayam,
Theni 625533. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in the order passed on 06.08.2024 and notice issued on 02.06.2025 by the respondent and quash the same and consequently, the direct the respondent to de-freeze the current accounts in A/c No. 6215271963 maintaining with Indian Bank, Chinnmanoor Branch, and in A/c. No. 510909010046174 maintaining with City Union Bank, Chinnmanoor Branch.

For petitioner : Mr. P.Thirumahilmaran

For respondent : Mr.R.Suresh Kumar
Additional Government Pleader

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ORDER

This Writ Petition is disposed of at the time of admission with the consent of the learned counsel for the petitioner and learned Additional Government Pleader for the respondent.

2. This case was heard at length at the time of admission. During the course of argument, the learned counsel for the petitioner has drawn attention to the decision of this Court rendered in the case of ***Sahulhameed vs. the Commercial Tax Officer, Tuticorin-II, Tirunelveli*** in ***W.P.(MD) Nos.26481 of 2024 and batch, dated 06.01.2025.***

3. However, it is noticed that in the present case, the impugned order is dated 06.08.2024. Long after the impugned order was passed, the petitioner has approached this Court stating that the petitioner was not given an opportunity of

being heard. The Hon'ble Supreme Court has categorically held that Writ Petitions filed beyond the statutory period of limitation prescribed in appeal has to be dismissed in ***Assistant Commissioner (CT) LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited*** reported in ***2020 SCC Online SC 440***.

4. However, considering the fact that many times, the assessee has not participated in the proceedings, this Court has come to rescue of the persons, like petitioners by quashing the orders subject to the terms, which has been repeatedly held under the circumstances directing them to deposit 25% of the disputed tax. It has been consistently followed by this Court in enormous number of cases, which has been accepted by the Department as well. In this case, there are no extenuating circumstances, which are available to take a different view in the matter.

5. Considering the same, this Writ Petition is disposed of at the time of admission by quashing the impugned order on terms, subject to the petitioner depositing 25% of the disputed tax to the credit of the Government, from its

Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order.

6. The impugned order, which stands quashed, shall be treated as addendum to the Show Cause Notice in DRC 01, dated 19.05.2024. The petitioner shall file a reply within a period of 30 days from the date of receipt of a copy of this order, along with the said deposit.

7. Thereafter, the respondent shall pass a fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of six months.

8. In case the petitioner complies with the abovesaid conditions stipulated, the impugned order is deemed to have been quashed. In case the petitioner has fails to comply with the above conditions, it shall be deemed that the Writ Petition was dismissed, in which the respondent is at liberty to proceed against the petitioner for recovery of tax due from the petitioner.

9. Subject to the petitioner complying with the above condition, the Current Account of the petitioner in A/c.No.6215271963, kept with Indian Bank, Chinnamanoor Branch and A/c.No.510909010046174, kept with City Union Bank, Chinnamanoor Branch, shall be de-freezed. In case there are sufficient balance in the account, the concerned Bank may transfer 25% of the disputed tax directly to the respondent.

10. This Writ Petition is disposed of, with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

25.06.2025

To

The State Tax Officer,
Commercial Tax Building,
Uthamapalayam Assessment Circle,
Main Bazaar, Opp. Sri Kannikaparameshwari Koil,
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Theni 625533.

C.SARAVANAN, J.

apd

W.P.(MD) No. 17127 of 2025

25.06.2025