



W.P.(MD) No. 18165 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No. 18165 of 2025
and
W.M.P.(MD) Nos.13906 & 13913 of 2025**

M/s. Ganesh Cell Communication,
rep. by its Proprietor P.L.Valliyappan.

... Petitioner

Vs

The Assistant Commissioner of GST and Central Excise,
I Division,
Tirchirappalli.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order of the respondent in C.No.IV/19/206/2021-ST, ADJN DIN – 20230359XN010000BBE7/2016-17, dated 09.03.2023 and quash the same.

For petitioner : Mr. K.Karthikeyan

For respondent : Mr. N.Dilip Kumar
Standing Counsel



W.P.(MD) No. 18165 of 2025

WEB COPY

ORDER

This Writ Petition is disposed of at the time of admission with the consent of the learned counsel for the petitioner and learned Standing Counsel for the respondent.

2. The petitioner has approached this Court against the impugned order in Original No.22/2023-ST, dated 09.03.2023 passed by the respondent under the provisions of the Finance Act, 1994. The preamble of the impugned order states that if aggrieved, an appeal has to be filed within two months as per Section 85 of the Finance Act, 1994. Hence, the petitioner also had an opportunity to file an appeal with an application for condoning the delay. However, the petitioner has slept over its rights and has now approached this Court for quashing the same.

3. The learned Standing Counsel for the respondent submits that this Writ Petition is liable to be dismissed on account of laches and also submits that the issue is also covered against the petitioner in the decision rendered by the Hon'ble Supreme Court in the case of *Assistant Commissioner (CT) LTU, Kakinada and*



W.P.(MD) No. 18165 of 2025

WEB COPY

others vs. Glaxo Smith Kline Consumer Health Care Limited reported in **2020 SCC Online SC 440.**

4. Having considered the submissions made by the learned counsel for the petitioner and learned Standing Counsel for the respondent, following the consistent view taken by this Court under the similar circumstances under the provisions of the respective GST enactments, I am inclined to come to the partial rescue of the petitioner by quashing the impugned order on terms, as there is no scope of directing the petitioner to file an appeal contrary to the decisions rendered by 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.**

5. Under these circumstances, the petitioner is directed to deposit 25% of the disputed tax within a period of thirty (30) days from the date of receipt of a copy of this order.



W.P.(MD) No. 18165 of 2025

WEB COPY

6. The petitioner shall file a reply with the respondent to the Show Cause Notice by treating the impugned order as addendum to the Show Cause Notice, together with the deposit, within the time stipulated above.

7. In case the petitioner complies with the above stipulations, the respondent shall proceed to pass a fresh order in the *de nova* proceedings after hearing the petitioner within a period of three (3) months thereafter.

8. In case the petitioner fails to comply with any of the stipulations mentioned above, the respondent is at liberty to proceed against the petitioner to recover the tax as if this Writ Petition was dismissed *in limine* today.

7. 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

04.07.2025



W.P.(MD) No. 18165 of 2025

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To
The Assistant Commissioner of GST and Central Excise,
I Division,
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W.P.(MD) No. 18165 of 2025

C.SARAVANAN, J.

apd

W.P.(MD) No. 18165 of 2025

04.07.2025