BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)No.21402 of 2025
and
W.M.P(MD)No.16526 of 2025

Tvl.Delux Super Market,
Rep by its Proprietor
John Archibald Donald
J.Archibald
GSTIN 33AIBPD9034G1ZP,
14-51F, Main Road,
Thuckalay Post,
Thuckalay, Kanniyakumari – 629175. ... Petitioner

Vs.

1.The State Tax Officer,
Thuckalay – 1 Assessment Circle,
Commercial Taxes Buildings,
Kattathurai – 629158.

2.The Deputy Commissioner (GST Appeals) (State Tax),
Madurai & Tirunelveli @ CT Buildings,
A.R.Line Road, Palayamkottai,
Tirunelveli. ...Respondents

(R2 is suo motu impleaded vide Court order dated 06.08.2025 in WP(MD)No.21402 of 2025)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in GSTIN - 33AIBPD9034G1ZP/2020-21 dated 26.02.2025 passed by the respondent under section 73 of TNGST Act 2017 and to quash the same as cryptic, non-speaking, illegal, arbitrary, wholly without jurisdiction and direct the respondent to pass assessment order afresh after affording opportunity of personal hearing and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.N.Sudalai Muthu

For Respondent : Mr.J.K.Jayaselan
Government Advocate

ORDER

The petitioner is before this Court against the impugned order dated 26.02.2025 for the financial year 2020-2021.

2.The impugned order preceded a notice in DRC 01A dated 26.11.2024. The petitioner has also replied to the same and also attended the personal hearing. Thus suffered the impugned assessment order, dated 26.02.2025.

3.Aggrieved by the same, the petitioner had also filed an appeal before the Appellate Authority under Section 107 of the respective Goods and Services Tax Enactments, 2017, with the marginal delay of 15 days beyond the condonable period of limitation.

4. Under these circumstances, the appeal has been rejected *in limine* by a communication in Form GST APL 02, dated 10.07.2025 and now, the petitioner has approached this Court for quashing the impugned order dated 26.02.2025.

5. The contention of the learned counsel for the petitioner that the demand has been confirmed vide impugned assessment order dated 26.02.2025 as beyond the scope of the demand proposed in notice in DRC 01 dated 26.11.2024.

6. A reference is made to the decision of the Division Bench of this Court in the case of ***Tvl.GLO Shipping Logistics Private Limited Vs. State Tax Officer reported in (2025) 29 Centax 292 (Mad.)***, wherein, this Court under somewhat identical circumstances has held as follows:

> *6.Relying upon Sub-Section (7) of Section 75 of the respective GST enactment, the learned counsel for the appellant submitted that the demand in the impugned order cannot be in excess of the amount specified in the Show Cause Notice. She also pointed out that the original Show Cause Notice is confined to Rs.21,77,761/- which is in respect of a reduction claimed on the basis of notification regarding Input Tax Credit. However, the impugned order directing the appellant to pay a sum of Rs.96,83,029/- is by treating the appellant as an "Intermediary" relying upon a few facts, of*

course, furnished by the appellant themselves. The learned counsel appearing for the appellant expressed her grievance that a fresh Show Cause Notice on the issue based on which the impugned order came to be passed, will be time barred in terms of Section 73 of the respective GST enactment.

7.However, question of limitation coupled with an issue relating to jurisdiction is to be decided based on certain factual aspects which can be canvassed before the respondent. Since an opportunity is given by the learned Single Judge, it is open to the appellant to raise all its defence in the reply before the respondent.

8.The learned counsel appearing for the appellant is also concerned about the further direction of the learned Single Judge to the effect that the impugned order of assessment will stand restored in case the appellant does not file any reply within three weeks time. Since the appellant has filed this Appeal, the reply as directed by the learned Single Judge was not filed. Therefore, the learned counsel also prayed for extending the time or to set aside that portion of the order.

9.Having regard to the facts, this Court is of the view that the further observation of the learned Single Judge giving scope for restoration of the order in case no reply is filed within three weeks, may not be appropriate. Therefore, the order of the learned Single Judge is set aside to that extent. It is open to the appellant to submit their reply within a period of four weeks from the date of receipt of a copy of this judgment. It is also open to the appellant to raise the question of limitation as well as jurisdiction as contended before this Court.

10.Accordingly, this Writ Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

7.Since the petitioner appears to have a made out a case and considering the fact that there is only a marginal delay of 15 days, this Court is inclined to quash the impugned order dated 10.07.2025 rejecting the petitioner's appeal.

8. Accordingly, the impugned order dated 10.07.2025 passed by the Deputy Commissioner (GST Appeals) (State Tax), Madurai & Tirunelveli stands quashed and the said Officer is directed to dispose of the petitioner's appeal on merits and in accordance with law without reference to limitation.

9. Considering the fact that the petitioner has not made the Deputy Commissioner (GST Appeals) (State Tax), Madurai & Tirunelveli @ CT Buildings, A.R.Line Road, Palayamkottai, Tirunelveli as a party to this proceedings, the Deputy Commissioner (GST Appeals) (State Tax), Madurai & Tirunelveli @ CT Buildings, A.R.Line Road, Palayamkottai, Tirunelveli is suo motu impleaded as the second respondent. Registry is directed to carry out necessary amendment in the cause title.

10. Since the petitioner has already pre-deposited 10% of the disputed tax, the bank account which was attached pursuant to the impugned order shall stand vacated forthwith.

11. The writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

06.08.2025

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

1.The State Tax Officer,
Thuckalay – 1 Assessment Circle,
Commercial Taxes Buildings,
Kattathurai – 629158.

2.The Deputy Commissioner (GST Appeals) (State Tax),
Madurai & Tirunelveli @ CT Buildings,
A.R.Line Road, Palayamkottai,
Tirunelveli.

C.SARAVANAN, J.

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