BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)No.23475 of 2025
and
W.M.P(MD)Nos.18445 and 18446 of 2025

M/s.Chendur Pandi Engineering Works,
Represented by its Proprietor,
Balaganesan,
S/o.Shendurpandi
No.2/22c, North Street,
Muthaiahpuram,
Tuticorin. ... Petitioner

Vs.

1.The Deputy Commissioner (GST),
Madurai, Camp at Tirunelveli,
Ground Floor,
C.T. Buildings,
A.R. Line Road,
Tirunelveli - 627 002.

2.State Tax Officer / Commercial Tax Officer,
State Tax, Commercial Tax Office,
Tuticorin - II,
Assessment Circle,
No.6R, North Cotton Road,
Thoothukudi,
Tuticorin,
Tamil Nadu – 628 001. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the order passed by the second respondent in Order No. ZD331123021359T/2018-2019/dated 03.11.2023/GSTIN - 33AHAPS4313F1ZS and quash the same as illegal.

For Petitioner : Mr.S.Muthu Kumar Raja

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

ORDER

The petitioner is aggrieved by the impugned order dated 03.11.2023 which was preceded by a notice in Form GST DRC 01 dated 01.09.2023 for the tax period April 2018-March 2019.

2. It is noticed that the petitioner has neither filed a reply to the notice nor participated in the personal hearing. In fact, the petitioner has slept over the rights as the impugned order was passed as early as 03.11.2023.

3. The petitioner submits that the petitioner has a prima facie case on merits and therefore, the petitioner may be permitted to work out the remedy before the appellate forum under Section 107 of the respective Goods and Services Tax Enactments, 2017.

4. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents, 1 am of the view that the oral prayer made by the petitioner for permitting the petitioner to file an appeal before the Appellate Commissioner at this distant point of time cannot be allowed in view of the decisions of the Hon'ble Supreme Court in the cases 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. However, considering the fact that the petitioner did not reply to the show cause notice, I am inclined to rescue the petitioner on terms, following the consistent view of this Court. Under Under similar circumstances, deposit of 25% of the disputed tax was ordered where there was marginal delay in approaching this Court. However, in this case, the delay is huge.

6. Since the delay is huge, balancing the interest of the petitioner and the revenue, this Writ Petition is disposed of, by quashing the impugned order, subject to the petitioner depositing 50% of the disputed tax, in cash from the Electronic Cash Register, within a period of 30 days from the date of receipt of a copy of this order.

7. The petitioner shall file a reply to the show cause notice that preceded the impugned order within such time. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice. The respondents shall endeavour to pass a fresh order on merits as expeditiously as possible after hearing the petitioner.

8. It is also made clear that in case the petitioner fails to comply with any of the conditions stipulated above, it will be deemed as if the Writ Petition was dismissed. In this case, it is open for the respondents to proceed to against the petitioner in accordance with the provisions of the respective GST enactments and the Rules made thereunder. No costs. Consequently, connected Miscellaneous Petitions are closed.

29.08.2025

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

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C.SARAVANAN, J.

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