BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition(MD)No.22884 of 2025
and
W.M.P(MD)No.17964 of 2025

Katharshah Ziauldeen ... Petitioner

Vs.

1.The Deputy Commissioner, (CT)
Commercial Tax Buildings,
South High Ground Road,
Palayamkottai, Tirunelveli.

2.The Assistant Commissioner (State Taxes),
Sivagangai Assessment Circle,
Marthupandiyar Nagar,
Collectorate Complex,
Sivagangai District.

... Respondents

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 relating to the impugned order passed by the 1st respondent vide his Reference No. ZD330825021043V dated 04.08.2025, quash the same as illegal and validating principal of natural justice and consequently direct the 1st respondent condone the delay in filling the petitioner's appeal beyond statutory period and admit the appeal against the order passed by the 2nd respondent his Reference No.ZD3301252596883 dated 28.01.2025.

For Petitioner : Mr.J.Mohamed Ibrahim
For Respondents : Mr.R.Suresh Kumar
Addl. Govt. Pleader

ORDER

Mr.R.Sureshkumar, learned Additional Government Pleader, takes notice for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved by the impugned order dated 04.08.2025 passed by the officer of the first respondent rejecting the appeal filed by the petitioner against the assessment order dated 28.01.2025 for the tax period between 2017-18. The aforesaid order has preceded notice DRC01 to which the petitioner has not replied.

3. The learned counsel for the petitioner would submit that the petitioner unsuccessfully challenged the order before the first respondent for filing an appeal on 02.08.2025. It is beyond the condonable period of limitation under Section 107 of the respective GST enactments. The petitioner has challenged the impugned order of the first respondent dated 04.08.2025, whereby the petitioner's appeal against the order of the second respondent dated 28.01.2025 has been rejected.

4. The learned Additional Government Pleader appearing for the respondents submitted that there is no merit in challenging the impugned order, as it has been passed strictly in accordance with the provisions of the respective GST enactments and the law settled by the Honourable Supreme Court.

5. I have considered the submission of the learned counsel for the petitioner and the learned Additional Government Pleader.

6. I am of the view that the challenge to the impugned order dated 04.08.2025, rejecting the petitioner's appeal in limine, cannot be entertained inasmuch as there has been an inordinate delay in approaching the Appellate Commissioner. The impugned order of the first respondent dated 04.08.2025 cannot be set aside in the light of the decisions of the Honourable Supreme Court in ***Assistant Commissioner (CT), LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited, 2020 SCC OnLine SC 44***, and ***M/s. Singh Enterprises vs. Commissioner of Central Excise, Jamshedpur and others, (2008) 3 SCC 70***. However, considering the fact that the petitioner did not reply to the show cause notice which preceded the assessment order dated 28.01.2025 passed by the

second respondent, I am inclined to grant limited relief to the petitioner, subject to conditions. The petitioner shall deposit 25% of the disputed tax within a period of 30 days from the date of receipt of a copy of this order. While calculating 25% of the disputed tax, the amount already deposited at the time of filing the appeal before the first respondent on 02.08.2025 shall be given credit. In other words, since 10% has already been deposited, the petitioner shall now pay only the balance 15% of the disputed tax. Such payment shall be made either in cash or through electronic cash register.

7. Upon such compliance, the petitioner shall file a consolidated reply to the show cause notice which preceded the assessment order dated 28.01.2025, and the said order shall be treated as an addendum to the notice in DRC-01. On receipt of such reply and proof of payment, the second respondent shall pass fresh orders on merits and in accordance with law as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. In the event of non-compliance with the above stipulation, it is open to the respondents to proceed with recovery of the balance disputed tax as per the assessment order dated 28.01.2025, and this writ petition shall stand dismissed in limine.

8. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
skn

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C.SARAVANAN, J.

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