BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.23339 of 2025
and
W.M.P.(MD)No.18340 of 2025

Tvl.Velmurugan Plastics,
Rep. by its Proprietrix P.Madubala,
GSTIN 33BZRPM8143F1Z3,
1/1291/47, Jakkadevi Nagar,
Pandian Nagar,
Virudhunagar-626001. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Virudhunagar – 2 Assessment Circle,
Commercial Taxes Buildings,
Virudhunagar. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in GSTIN : 33BZRPM8143F1Z3 / 2019-20, dated 13.08.2024, passed by the respondent under Section 73 of TNGST Act 2017 and to quash the same as cryptic, barred by limitation, non-speaking, illegal, arbitrary, wholly without jurisdiction and direct the respondent to pass assessment order afresh by considering the reply and records filed by the petitioner.

For Petitioner : Mr.N.Sudalai Muthu

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

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

2. In this Writ Petition, the petitioner has challenged the impugned assessment order dated 13.08.2024, passed for the tax period 2019–2020. The said assessment order was preceded by a show cause notice in Form GST DRC-01 dated 28.05.2024, to which the petitioner submitted a reply.

3. It appears that the demand has been confirmed against the petitioner based on a mismatch between GSTR-3B and GSTR-2A. The petitioner contends that the input tax credit (ITC) was availed based on auto-populated data in GSTR-2A and Table 8A of GSTR-9, *i.e.,* the Annual Return filed by the supplier.

4. It is further submitted that the entire tax amount demanded under the impugned order was recovered on 21.11.2024 from the petitioner's electronic credit ledger.

5. The learned counsel for the petitioner submits that the petitioner ought to be granted an opportunity to file a statutory appeal before the Appellate Commissioner. It is also submitted that the limitation period has lapsed, as the order was passed on 13.08.2024 and allegedly not noticed earlier.

6. The learned Additional Government Pleader for the respondent, however, contends that the Writ Petition is barred by limitation, relying on the following decisions of the Hon'ble Supreme Court:-

(i) **M/s.Singh Enterprises** vs. **Commissioner of Central Excise, Jamshedpur and Others**, **(2008) 3 SCC 70**;

(ii) **CCE and Customs** vs. **Hongo India (P) Ltd., (2009) 5 SCC 791**; and

(iii) **Assistant Commissioner (CT), LTU, Kakinada and Others** vs. **Glaxo Smith Kline Consumer Health Care Ltd., 2020 SCC OnLine SC 44.**

7. Having considered the submissions made by both sides, this Court is of the view that the petitioner may have a *prima facie* case to contend that the tax demand may not be sustainable. However, the petitioner has admittedly not filed an appeal within the statutory period. The explanation offered is that the impugned order was not noticed, as it was merely hosted on the GST portal, and the petitioner, being a small dealer, was unaware of such mode of communication.

8. In view of the above and considering that the entire tax amount has already been recovered, this Court is inclined to extend indulgence to the petitioner, balancing the interests of justice.

9. Accordingly, the Writ Petition is disposed of with a direction to the petitioner to file an appeal before the Appellate Commissioner (GST), Madurai or the Camp Office at Tirunelveli, within a period of 30 days from the date of receipt of a copy of this order.

10. If such an appeal is filed within the stipulated time, the Appellate Authority shall entertain the appeal and dispose of it on merits, without reference to limitation, considering the facts and circumstances of the case, particularly, the recovery already effected.

No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No **26.08.2025**
Index : Yes / No
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To:-

The Assistant Commissioner (ST),
Virudhunagar – 2 Assessment Circle,
Commercial Taxes Buildings,
Virudhunagar.

C.SARAVANAN, J.

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W.P.(MD)No.23339 of 2025

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