BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.08.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 23252 of 2025
and
W.M.P.(MD) No.18274 of 2025

Tvl. M.V.Rajarathinam Impex,
rep. by its Proprietor K.Saranya. ... Petitioner

Vs

1. The Assistant Commissioner (ST)- 1,
Tuticorin-1 Assessment Circle,
Tuticorin.

2. The Deputy Commissioner (CT),
GST Appeal,
Tirunelveli. ... Respondents

<u>PRAYER:</u> Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for records pertaining to the impugned order passed by the first respondent *vide* order in GSTIN 33IDUPS1453L1ZS, dated 15.02.2025 (Tax Period: 2020-2021) and consequential order passed by the second respondent *vide* order in FORM GST APL-02 dated 19-07-2025.

For petitioner : Mr. A. Satheesh Murugan

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

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ORDER

This Writ Petition is taken up for hearing at the time of admission with the consent of the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

2. The petitioner is before this Court against the impugned assessment order dated 15.02.2025 passed by the first respondent/Assistant Commissioner, Tuticorin and the order passed by the second respondent/Deputy Commissioner, dated 19.07.2025 rejecting the petitioner's appeal filed against the order of the first respondent.

3. The learned counsel for the petitioner submits that the petitioner's appeal was rejected on the ground of limitation, as it was filed beyond the condonable period of limitation. At the time of filing of the appeal before the second respondent, the petitioner has also made pre-deposit of Rs.19,168/- being 10% of

the disputed tax.

4. It is submitted that a sum of Rs.1,00,436/- has also been recovered from the petitioner's bank account directly.

5. As far as the challenge to the order passed by the second respondent on 19.07.2025 is concerned, there can be no serious arguments advanced by the petitioner in the light of the well settled principal rendered by 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.*** To that effect, this Writ Petition is liable to be dismissed.

6. However, it is noticed that the substantial amount has been recovered, which according to the petitioner works out 43% inclusive of the amount that was pre-deposited by the petitioner at the time of filing of the appeal before the second respondent.

7. Under the similar circumstances, where assessee had failed to respond to the show cause notice, the orders are being set aside and the cases were remitted back to the first respondent on terms subject to the petitioner depositing 25% of the disputed tax. In this case, since more than 25% of the disputed tax has already been recovered, this Court is inclined to quash the impugned order with a direction to the first respondent to pass fresh orders.

8. The petitioner shall file a reply to the notice in DRC 01, dated 20.11.2024 by treating the impugned order as addendum to the Show Cause Notice within a period of thirty (30) days from the date of receipt of a copy of this order.

9. In case the petitioner complies with the above stipulations, the first respondent shall proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of two (2) months thereafter, after hearing the petitioner.

10. In case the petitioner fails to comply with any of the conditions

stipulated above, the respondents are at liberty to proceed against the petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

11. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

28.08.2025

Index : Yes / No
Internet : Yes / No
apd

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C.SARAVANAN, J.

apd

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