IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2026

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 262 of 2026
and
W.M.P. Nos. 307 & 309 of 2026

Kumaraguru Foods,
Represented by its Proprietor,
Thiru Sundaram, No.1, Singaravelu Street,
Pondy Bazaar, T.Nagar, Chennai – 600 017.

... Petitioner

Versus

1. The Assistant Commissioner (ST),
   Nandanam Assessment Circle,
   No.46, Pasumpon Muthuramalingam Salai,
   Raja Annamalai Puram, Chennai – 600 028.
2. The Deputy Commissioner (ST),
   GST Appeal, Chennai (South),
   PAPJM building, Greams Road,
   Main Building, Second Floor, Chennai – 600 006.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus call for the records of impugned order under Section 73 dated 30.08.2024 having reference number ZD330824291180H dated 30.08.2024 passed by the first respondent for the financial year 2019-20 and the impugned order in Form GST APL-02 dated 10.12.2025 having reference number ZD3312251528685 passed by the second respondent and quash the same as illegal, erroneous on facts and violative or principles of Natural justice and consequently direct the second respondent to condone the delay in filing the appeal and thereby directing to consider the matter afresh on merits after providing an opportunity of personal hearing.

For Petitioner : Mr.T.Suresh

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

<u>O R D E R</u>

Mr.V.Prashanth Kiran, learned Government Advocate, takes notice for the Respondents.

2. This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Government Advocate for the Respondents.

3. In this Writ petition, the petitioner has challenged the impugned Assessment order dated 30.08.2024 and the appeal rejection order dated 10.12.2025 whereby the petitioner's appeal against the said order, filed on 10.11.2025, was rejected by the Appellate Authority on 10.12.2025, namely, the office of the second respondent on the ground of limitation.

4. The impugned assessment order dated 30.08.2024 was preceded by a Show Cause Notice in DRC-01 dated 29.05.2025, wherein, the petitioner was called upon to file a reply and to appear for a personal hearing fixed.

5. In response to the aforesaid Show Cause Notice dated 29.05.2024, the petitioner had filed a detailed reply on 28.06.2024. The allegations against the petitioner pertain to an alleged mismatch on account of excess input tax credit claimed, arising from the difference between GSTR-2A and GSTR-2B. The petitioner's reply dated 28.06.2024 which was subsequently referred on 28.06.2024, was duly considered in this regard.

6. The aforesaid petitioner's reply reads as under:-

> "*With reference to the above subject, we hereby inform you that the total input availed is Rs.16,36,094/- and as per GSTR 2A is Rs.13,17,511/-. So, the excess claimed ITC is Rs.3,18,583/-. The reason for the excess claim is as of Sep 2019 there was no rule in GST that excess ITC cannot be claimed and from Oct 2019 only it was introduced so that the excess IT claimed is of previous months from Apr 2019 to Sep 2019.*
> *Further in terms of percentage of excess ITC claimed is around 24%, so only 4% excess claim has been taken which might be relating to previous months from Apr 2019 to Sep 2019.*
> *Further I can do the counter sales of business like vegetables and provisional to sale in the premises*
> *Billing around maximum Rs.5000-00 to 10000-00, there is no*

issue if e way bill.
Hence, we hereby requesting your good office to please drop the interest and penalty proceedings as the claim is within the range only."

7. Today, when the case was taken up for hearing, the learned counsel for the petitioner drew the attention of this Court to following Notification No.18/2022-Central Tax:-

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (ii)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION
No.18/2022–Central Tax

New Delhi, the 28th September, 2022

S.O. ... (E).— In exercise of the powers conferred by clause (b) of sub-section (2) of section 1 of the Finance Act, 2022 (6 of 2022), the Central Government hereby appoints the 1st day of October, 2022, as the date on which the provisions of sections 100 to 114, except clause (c) of section 110 and section 111, of the said Act, shall come into force.

[F. No. CBIC-20001/5/2022-GST]

(Rajeev Ranjan)
Under Secretary, Government of India

However, it was observed that there is no consistency in the stand taken by the petitioner, either before the respondents or before this Court.

8. The learned counsel for the petitioner further submitted that the petitioner is engaged in the supply of exempted goods and therefore, there would be no question of the petitioner availing input tax credit at all. However, considering the fact that the reply submitted does not disclose a proper defence to the Show Cause Notice dated 29.05.2024, the explanation offered by the petitioner was found to be inadequate.

9. Having considered the submission of the learned counsel for the petitioner and the learned Government Advocate for the respondents and following the consistent view taken by this Court under similar circumstances, the case is remitted back to the 1st respondent to pass a fresh order on merits, subject to the Petitioner depositing an additional 40% of the disputed tax, over and above the 10% already pre-deposited at the time of filing the appeal before the office of the 2nd Respondent on 10.11.2025 in case or from the petitioner's Electronic Cash Register within a period of 30 days from the date of receipt of copy of this order.

10. Within such time, the Petitioner shall also file an additional detailed reply to the Show Cause Notice in GST DRC-01 dated 29.05.2024 together with requisite documents to substantiate the case by treating the impugned Order dated 30.08.2024 as an addendum to the Show Cause Notice dated 29.05.2024.

11. Amount which has already recovered from the petitioner or paid by the petitioner towards the tax liability confirmed vide impugned order dated 30.08.2024 shall be adjusted towards the pre-deposit of 40% of disputed tax.

12. In case the Petitioner complies with the above stipulations, the 1st Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

13. It is made clear that bank attachment shall be lifted subject to the deposit of 40% of the disputed tax as ordered above and the Petitioner not

being in arrears of any other amount demanded for any other tax period barring the amount demanded under the impugned Order.

14. In case the Petitioner fails to comply with any of the stipulations, the 1st Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

15. Needless to state, before passing any such order, the 1st Respondent shall give due notice to the Petitioner.

16. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

07.01.2026

Index : Yes/No
Neutral Citation :Yes/No
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C.SARAVANAN, J.

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