IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 3171 of 2026
and
WMP.Nos.3576, 3577 & 3579 of 2026

K.Raja
20A, W -33, New Colony, Street No.7,
Bodinayakanur-625 513.
Theni District, Tamil Nadu.

..Petitioner(s)

Vs

1. The Commissioner of CGST & Central Excise,
   Appeals-II,
   Newry Towers, No.2054-1, II Avenue,
   12th Main Road, Anna Nagar,
   Chennai-600 040.
2. The Additional Commissioner of Central GST
   and Central Excise,
   O/o. The Commissioner of GST and Central
   Excise,
   Chennai South Commissionerate,
   692, MHU Complex, Nandanam,
   Chennai-600 035.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent herein viz., The Commissioner of CGST & Central Excise, (Appeals-II), Chennai, in Order-in-Appeal No.259/2025, dated 27.11.2025 in A.No.325/2025/ GSTA-II/ COMM/CS, dated 17-06-2025, in rejecting the Appeal for delay in submission by confirming the order of the 2nd respondent herein viz., The Additional Commissioner of Central GST & Central Excise, Nandanam, Chennai, in Order-in-Original bearing No.37/2024 (DGGI), dated 21-11-2024 in File No.GEXCOM/ ADJN/ GST/ADC/ 388/ 2023-ADJN with DIN 20241159TL000000B7B6, quash the same and to direct the respondents herein to re-consider for fresh adjudication on the basis of the reply to be filed and on the basis of documents and facts available on records by condoning the delay and to decide on merits.

For Petitioner(s):	Mr.A.K.Jayaraj
For Respondent(s):	Mr.Rajnish Pathiyil Senior Standing Counsel

ORDER

Mr.Rajnish Pathiyil, learned Senior Standing Counsel, 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 Senior Standing Counsel for the Respondents.

3. In this writ petition, the petitioner has challenged the impugned Order in Original No.37/2024 dated 21.11.2024 and the Order- in-Appeal No.259/2025 dated 27.11.2025 in Appeal No.325/2025/GSTA-II/COMM/CS, which was filed on 17.06.2025 by the petitioner against the impugned order dated 21.11.2024.

4. By the 2nd mentioned impugned order, the petitioner's appeal against Order- in- Original No.37/2024 passed by the second respondent / Additional Commissioner of Central GST & Central Excise has been rejected on the ground of limitation by the 1st respondent.

5. The impugned Order- in- Original dated 21.11.2024 was passed by the second respondent on 21.11.2024. A summary of the impugned Order in Original in GSTR-07 was issued to the petitioner only on 27.03.2025.

6. The petitioner thereafter filed the appeal against the impugned order dated 21.11.2024 on 17.06.2025 before the office of the first respondent. However, the first respondent concluded that the impugned Order- in- Original No.37/2024 dated 21.11.2024 had already been transmitted to the petitioner through email on 22.11.2024 while calculating the period of limitation.

7. Recently, a similar issue under similar circumstances arose for consideration before this Court in W.P.No.30727 of 2025. This Court vide order dated 04.02.2026 allowed the aforesaid writ petition, following the view expressed by the Hon'ble Supreme Court in **ASP Traders Vs. State of Uttar Pradesh, (2025) 32 CENTAX 446.**

8. The Hon'ble Supreme Court in the aforesaid case referred to the **Circular No.41/15/2018-GST** dated **13.04.2018** issued by the Central Board of Indirect Taxes & Customs which prevailed at the time when the order was passed. Relevant portion from the said Circular is extracted below:-

> *"An order of confiscation of goods shall be passed in **FORM GST MOV-11,** after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in **FORM GST MOV-11** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the*

electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in ***FORM GST MOV-11****, the order in* ***FORM GST MOV-09*** *passed earlier with respect to the said goods shall be withdrawn."*

9. Subsequently, Circular No.49/23/2018-GST dated 21.06.2018 was issued, relevant portion of which has been extracted below:-

"Circular No.41/15/2018-GST dated 13.04.2018 was issued to clarify the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

2. In order to clarify certain issues regarding the specified procedure in this regard and in order to ensure uniform implementation of the provisions of the CGST Act across all the field formation, the Board, in exercise of the powers conferred under section 168(1) of the Central Goods and Services Tax Act, hereby issues the following modification to the said Circular:-

(i) In para 2(e) of the said Circular, the expression "three working days" may be replaced by the expression "three days";

(ii) The statement after paragraph 3 in ***FORM GST MOV-05*** *should read as: "In view of the above, the goods and conveyance(s) are hereby released on (DD/MM/YYYY) at _____ AM/PM/"*

3.0 Further, it is stated that as per rule 138C (2) of the Central Goods and Services Tax Rules, 2017, where the *physical verification of goods being transported on any conveyance has been done during at one place within a State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relation to evasion of tax is made available subsequently. Since the requisite FORMS are not available on the common portal currently, any action initiated by the State tax officers is not being intimated to the central tax officers and vice-versa, doubts have been raised as to the procedure to be followed in such situations.*

3.1 In this regard, it is clarified that the hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required.

3.2 Further, it is clarified that only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.

> *Illustration: Where a conveyance carrying twenty-five consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of twenty consignments, but is unable to produce the same with respect to the five consignments, detention/confiscation can be made only with respect to the five consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper*

officer.

4. It is requested that suitable trade notices may be issued to publicise the contents of this Circular.

5. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Board at an early date."

10. In W.P.No.30727 of 2025 vide order dated 04.02.2026, this Court held as under:

"6. As per Rules 142(5) of the CGST Rules, 2017, a summary of the orders issued under sections 52, 62, 63, 64, 73, 74, 74A, 75, 76, 122, 123, 124, 125, 127, 129 and 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned. These Rules are reproduced below:

> *(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 [10][or section 74A] or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in* ***FORM GST DRC-0****7, specifying therein the amount of 6[tax, interest and penalty, as the case may be, payable by the person concerned].*

7. As per Rule 142(6) of the CGST Rules, 2017, such electronic uploading of orders in Form GST DRC-07 shall be treated as the Notice for recovery.

8. Thus, the purpose of uploading Form GST DRC-07 electronically is solely to provide a summary of the demand, which is to be treated as a Notice for Recovery of the tax confirmed in the Assessment Order. The Central Board of Indirect Taxes and Customs has, however, clarified otherwise in its ***Instruction No. 04/2023-GST dated 23.11.2023*** *as* *under:-*

> *"2. It is also mentioned that as per sub-rule (5) of rule 142 of CGST Rules, where any order is issued by the proper officer under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 of CGST Act, summary of such order is also required to be uploaded electronically on the portal by the proper officer in FORM GST DRC-07, specifying the amount of tax, interest and penalty, as the case may be, payable by the person concerned.*
>
> *.....*
>
> *4. It is highlighted that non-issuance of the summary of such notices/ orders electronically on the portal is in clear violation of the explicit provisions of CGST Rules. Besides, serving/ uploading the summary of notices/ orders electronically on the portal not only makes the said notices/ orders available electronically to the taxpayers on the portal, but also helps in keeping a track of such proceedings and consequential action in respect of recovery, appeal etc, subsequent to issuance of such notices/ orders. <u>Accordingly, any deviation from this requirement under CGST Rules may adversely impact record keeping under GST. Further, such an action may also impact further proceedings of appeal and/ or recovery to be done seamlessly on the portal.</u>*
>
> *5. The proper officers are accordingly directed to ensure that summary of the notices issued under section 52 or section 73 or section 74 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 of CGST Act are served, electronically on the portal in FORM GST DRC-01. <u>Also, they should ensure that summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74</u>*

or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 of CGST Act is uploaded electronically on the portal in FORM GST DRC-07."

9. The Hon'ble Supreme Court while dealing with a similar issue as in the present case in the context of an order passed under Section 129(3) of the respective GST Enactment in ***ASP TRADERS vs. STATE OF UTTAR PRADESH [(2025) 32 Centax 446],*** *held that compliance with these procedural requirements is essential not only for ensuring transparency and accountability in tax administration, but also for safeguarding the taxpayer's appellate rights under the CGST Act, 2017. There, the arguments of the assessee, which were captured in Paragraph 4.7 and are similar to the arguments in the present writ petition, were entertained. The said paragraph of the aforesaid judgment is reproduced below:*

> *"**4.7.** In light of the above submissions, the learned counsel prayed that the impugned order of the High Court be set aside, and appropriate directions be issued to the respondent authorities to pass final orders in Form GST MOV-09 and GST DRC-07, thereby preserving the appellant's right to appeal against the same under the CGST Act, 2017."*

10. The Hon'ble Supreme Court had also referred to ***Circular No.41/15/2018-GST****,* ***dated 13.04.2018****. The text of the said circular was also reproduced and clarified by the Hon'ble Supreme Court in Paragraph 10 of the judgment, which is as under:-*

> *"(n) An order of confiscation of goods shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in*

lieu of confiscation and get the goods released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in FORM GST MOV-11, the order in FORM GST MOV-09 passed earlier with respect to the said goods shall be withdrawn."

11. The Hon'ble Supreme Court took note of the aforesaid circular and ultimately concluded as under:-

> *"19. Therefore, even assuming that the payment was made by the appellant, voluntarily or otherwise, the proper officer could not be absolved of the statutory obligation to pass a reasoned order in Form GST MOV-09 and upload the corresponding summary in Form GST DRC-07. Compliance with these procedural requirements is essential not only for ensuring transparency and accountability in tax administration, but also for safeguarding the taxpayer's appellate rights under the CGST Act, 2017. Such adherence is in consonance with the constitutional mandate under Article 265 of the Constitution of India."*
>
> *20. In view of the foregoing discussion, and taking into account that objections were filed, payment was stated to have been made under protest due to business exigencies, and the appellant seeks to challenge the levy, the proper officer was under a clear statutory obligation to pass a final order under section 129(3) in Form GST MOV-09 and DRC-07. The refusal by the High Court to direct the passing of such an order, has the effect of frustrating the appellant's statutory right to appeal and is contrary to well established legal principles governing tax*

adjudication and procedural fairness.

21. Accordingly, the impugned order passed by the High Court is set aside. Respondent No.3 is directed to pass a reasoned final order under section 129(3) of the CGST Act, 2017, in Form GST MOV-09, after granting an opportunity of being heard as mandated under section 129(4), and upload the summary thereof in Form GST DRC-07 within a period of one month from the date of receipt of a copy of this judgment. Thereafter, it shall be open to the appellant to pursue appropriate legal remedies against such order, in accordance with law."

12. The Hon'ble Supreme Court in the aforesaid judgment has indicated that uploading of the summary of the order in Form GST DRC-07 to the web portal, as per Rule 142(5) of the respective GST Rules, is mandatory for filing a statutory appeal against the assessment order."

11. Considering the above facts and circumstances, the impugned order passed by the first respondent is quashed and the case is remitted back to the first respondent to pass a fresh order on merits and in accordance with law without further reference to limitation.

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

05-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

av/dpa

To

1. The Commissioner of CGST and Central Excise, Appeals-II
   Newry Towers, No.2054-1, II Avenue,
   12th Main Road, Anna Nagar,
   Chennai-600 040.

2. The Additional Commissioner of Central GST and Central Excise
   o/o.the Commissioner of GST and Central Excise,
   Chennai South Commissioenrate,
   692, MHU Complex, Nandanam, Chennai-600 035.

C.SARAVANAN, J.

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