IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-02-2026

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 3535 of 2026
and
WMP NO. 3961 OF 2026, WMP NO. 3962 OF 2026

M/s.Flyer Worldwide Express
Rep. by its Proprietor, Venkatachalapathys,
New No. 147, Old No. 76/3,
E R Complex, Arcot Road,
Kodambakkam,
Chennai, Tamil Nadu, 600024

Petitioner(s)

Vs

The Assistant Commissioner (ST)
(FAC) / Commercial Tax Officer
Kodambakkam Assessment Circle,
Station No.1,4th Floor, PAPJM Annex
Building, Greams Road,
Chennai- 600 006.

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India, to call for records of the impugned order in GSTIN 33ADHPV5902A1ZV/2019-20 dated 23.08.2024 along with DRC-07 Order under Section 73, Ref No.ZD3308242227874 dated 23.08.2024, on the file of the Respondent herein and the quash the same as illegal, arbitrary against the principle of natural justice.

For Petitioner : Mr.S.Chetan Prakash

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader takes notice for the Respondent.

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

3. The petitioner is before this Court challenging the impugned Assessment order dated 23.08.2024 passed by the respondent for the Tax Period 2019-2020, which was preceded by a Show Cause Notice in DRC-01 dated 31.05.2024, to which the petitioner failed to file a proper reply. Thus, the impugned Assessment order has been passed.

4. The writ petition has been filed long after the expiry of limitation, and as such, the liability is dismissed in the light of the law laid down by the Hon'ble Supreme Court in **Singh Enterprises** Vs. **Commissioner of Central Excise**, **Jamshedpur and others**, (2008) 3 SCC 70 and in **Commissioner of Customs and Central Excise** Vs. **Hongo India Private Limited and another**, (2009) 5 SCC 791 and also in **Assistant Commissioner (CT) LTU, Kakinada**

and others Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

5. However, a reading of the impugned order indicates that the conclusions regarding the e-way bills, both outward and inward, have been confirmed in the absence of a proper reply by the petitioner, and consequently, a penalty of Rs.50,000/- has been imposed for the Tax Period 2019–2020.

6. Prima facie, there are indications that such penalty could be confined to Rs.25,000/- each under Section 125 of the respective GST Enactments, 2017.

7. At this stage, the learned counsel for the Petitioner submit that the Petitioner is willing to pre-deposit 50% of the disputed penalty as a condition for *denovo* adjudication.

8. Under similar circumstances, Orders have been quashed and cases have been remitted back to the Respondent to pass a fresh order on terms subject to such Assessee depositing 25% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

9. It is noticed that there is no discussion in the impugned order regarding the proposition of penalty either under Section 125 or under Section 73/79.

10. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 50% of the disputed penalty in cash or from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

11. In case the Petitioner complies with the above stipulations, the 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 vacated.

12. It is made clear that bank attachment shall be lifted subject to the Petitioner depositing 50% of the disputed penalty as ordered above and the Petitioner not being in arrears of any other amount for any other tax period barring the amount demanded under the impugned Order.

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

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

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

09-02-2026

cda

To

The Assistant Commissioner (ST)(FAC) /
Commercial Tax Officer
Kodambakkam Assessment Circle,
Station No.1,4th Floor, PAPJM Annex Building,
Greams Road,
Chennai- 600 006.

C.SARAVANAN J.

cda

WP No. 3535 of 2026
AND WMP NO. 3961 OF
2026,WMP NO. 3962 OF 2026

09-02-2026