IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.9537 of 2026
and
W.M.P.Nos.10274 and 10275 of 2026

Tvl.M.N.S.Enterprises,
Represented by its Proprietor
Sheik Dawood ... Petitioner

Vs.

1.The Deputy Commissioner (Appeals-II),
Integrated Commercial Taxes Building,
Greams Road, Chennai – 600 006.

2.The Assistant Commissioner (ST),
Alandur Assessment Circle,
Integrated Commercial Taxes and
Registration Department Buildings (South Tower),
Nandanam, Chennai – 600 035. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order bearing reference number ZD330126166150W dated 23.01.2026 passed by the 1st Respondent and quash the same as the same being arbitrary, passed in violation of the principles of natural justice, and direct the 1st Respondent to consider the Appeal filed by the Petitioner.

For Petitioner : Mr.S.Md.Zuhayr

For Respondents : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirtha Poonkodi Dinakaran, 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 the learned Government Advocate for the Respondents.

3. The Petitioner is before this Court against the impugned Order dated 23.01.2026 passed by the 1st Respondent in Form GST APL-02. The said appeal was filed by the Petitioner on the same date on its dismissal against the Order dated 08.08.2025 passed by the 2nd Respondent under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017.

4. It is noticed that although the Petitioner had not replied to the Show Cause Notice in GST DRC-01 dated 04.06.2025, the Petitioner had earlier given a detailed reply on 18.04.2025 in response to intimation in GST

DRC-01A dated 03.09.2024 and the same has been considered and detailed order has been passed by the 2nd Respondent in Form GST DRC-07 dated 08.08.2025.

5. As such, there are no indications of any procedural irregularity committed by the 1st Respondent in passing the impugned Order. It cannot also be stated that the Order passed by the 2nd Respondent on 08.08.2025 suffers from any arbitrariness.

6. At this stage, the learned counsel for the Petitioner submits that the Petitioner is willing to pre-deposit another 15% of the disputed tax over and above 10% of disputed tax pre-deposited at the time of filing of appeal as a condition for *de novo* consideration of the appeal.

7. The learned counsel for the Petitioner has also made an endorsement to that effect in the Court Bundle, which is extracted hereunder:-

> *"We are ordered by the Court to deposit additional 15% apart from the pre-deposit of 10% paid at the time of appeal. We are ready to pay the same and get the matter remitted to the appellate authority-1st Respondent."*

8. The Petitioner ought to have filed an appeal in time in terms of Section 107 of the respective GST Enactments. The appeal has been filed 48 days beyond the condonable period of limitation.

9. Although no fault can be attributed to the impugned Order dated 23.01.2026 passed by the 1st Respondent in dismissing the appeal of the Petitioner, however considering the fact that the Petitioner may have a case on merits, and since the delay is marginal, this Court is inclined to condone the delay and remit the case back to the 1st Respondent.

10. Accordingly, this case is remitted back to the 1st Respondent to pass a fresh order in appeal on merits, subject to the Petitioner depositing another 15% of the disputed tax over and above the 10% of disputed tax pre-deposited at the time of filing of appeal on 23.01.2026, 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.

10. In case there has been recovery made from the Petitioner or any other amount paid by the Petitioner towards the tax liability confirmed vide

impugned Order dated 23.01.2026, the same shall be set off against the pre-deposit of 15% as ordered above. This shall however be subject to verification by the Respondents.

11. In case the Petitioner complies with the above stipulations, the 1st Respondent shall proceed to pass a final order on merits, without further reference to the limitation and in lieu of impugned Order dated 23.01.2026. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner, if any, shall also stand automatically vacated. All the issues are left open to be canvassed by the Petitioner before the 1st Respondent.

12. In case the Petitioner fails to comply with any of the stipulations, the concerned 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.

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

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

12.03.2026

Neutral Citation : Yes / No

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<u>To</u>:

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Greams Road, Chennai – 600 006.

2.The Assistant Commissioner (ST),
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Integrated Commercial Taxes and
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C.SARAVANAN, J.
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