



WEB COPY



Rev.Aplw. No.180 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.11.2025

PRONOUNCED ON : 27.02.2026

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

Review Application No.180 of 2025

against

W.P. No.1732 of 2025

Future Consumer Limited
Represented by its Chief Finance Officer,
Rajendra Bajaj,
Abirami Avenue, 2, 14th Street,
Kannadasan Nagar, Chennai 600 118.

... Petitioner

Vs.

State Tax Officer,
Kodungaiyur Assessment Circle,
Room No.203, 2nd Floor, No.32,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

... Respondents

Prayer: Review Application filed under Order XLVII Rule 1 of the Civil Procedure Code, 1908 to review the order dated 23.01.2025 in W.P.No.1732 of 2025.

For Petitioner : Mr.Naresh Thakker
for Ms.Anusha Peri and
Mr.Kewal Buddhdev



WEB COPY



Rev.Aplw. No.180 of 2025

For Respondents : Mr.C.Harsha Raj
Special Government Pleader

ORDER

This petition is filed seeking review of the order of this court dated 23.01.2025 in W.P.No.1732 of 2025, whereby impugned order of assessment dated 27.04.2024, for the period 2018-19 was set aside, inter alia subject to the condition that petitioner deposits 25% of disputed taxes within a period of four weeks.

2. Before proceeding, it must be noted that the above condition of 25% of disputed taxes was imposed/passed on the basis of consent by counsel for petitioner and respondent, as could be seen from the following portions of the order of this Court dated 23.01.2025:

“6. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.”



WEB COPY



Rev.Aplw. No.180 of 2025

7. By consent of parties, this writ petition stands disposed of on the following terms:

- a) The impugned order dated 27.04.2024 is set aside.
- b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.
- c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.
- d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of 25% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance with the above direction shall be completed within a period of four weeks from the date of receipt of copy of this order.
- e) Failure to comply with the above condition viz., payment of 25% of disputed taxes within the stipulated



WEB COPY



Rev.Aplw. No.180 of 2025

period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

g) On complying with the above condition, the impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four (4) weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. It is made clear that if the above conditions viz., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.”

(emphasis supplied)



Rev.Aplw. No.180 of 2025

3. This review petition is filed inter alia on the following grounds viz.,

a) That the undertaking/consent to pay 25% of disputed taxes, as a condition for setting aside the order of assessment was made by counsel for petitioner, without being so instructed by petitioner. Learned counsel for the petitioner would place reliance on the following judgments of the Supreme Court in support of his contention that petitioner / assessee cannot be made to suffer on account of any fault of his counsel nor on the basis of concession made without obtaining instruction/authorization from the client.

i) Rafiq & Anr. v. Munshilal & Anr, reported in (1981) 2 SCC 788;

ii) Ashok Kumar v. New India Assurance Company Ltd., reported in (2024) 1 SCC 357;

iii) Himalayan Co.op Group Housing Society v. Blawan Singh & Ors, reported in (2015) 7 SCC 373;

iv) Executive Director, Bharat Heavy Electricals Ltd. v. the Central Government Industrial Tribunal cum Labour Court & Aur (Order dated 29.04.2022 passed in W.P. Nos. 913 & 914 of 2015)

v) Ramashraya & 4 Ors v. Dharmdeo & 3 Ors, (Order dated 09.05.2024 passed by the Hon'ble Allahabad High Court in Civil Misc Review Application No. 573 of 2023)



Rev.Aplw. No.180 of 2025

WEB COPY

vi) Himalayan Co.op Group Housing Society v. Blawan Singh & Ors,
reported in (2015) 7 SCC 373.

b) Secondly, it was not brought to the notice of this court that the petitioner was declared / classified as a “non-performing asset” on 30.06.2022 with effect from 07.05.2021. Thereafter Applicant offered another proposal for settlement of its dues by way of asset monetization and the debt repayment plan was shared with the lenders and presented at the Joint Lenders Meeting held on 06.07.2022. In the meanwhile, the transactions of the Applicant continued to be routed through TRA and were subject to scrutiny by SMA. Considering the fact that the Applicant was already facing financial difficulties and had no authority to approve any payments without the approval of the lenders, it is manifestly clear that the Applicant was not in a position and could not have provided the instructions for depositing any amount.



c) That disputed tax is *ex facie* speculative in nature and wholly arbitrary, whimsical and imaginary, thus no direction ought to have been passed to pay 25% on such taxes.

4. To the contrary, learned counsel for the respondent submitted that the impugned order is based on consent and it does not suffer from any error apparent on the face of the record.

5. Heard both sides.

6. Power of review lies in a very narrow compass viz.,

i) Where the order suffers from error apparent on the face of the record; or

ii) Where the person feels aggrieved from discovery of new and important matter or evidence which after exercise due diligence was not within his knowledge and could not be produced by him at the time when the order was made.



7. This court finds that none of the above grounds are available to the petitioner in the present case. The order sought to be reviewed on the premise that the counsel for the petitioner consented / volunteered to pay 25% of the disputed tax, without instructions from the petitioner may not constitute an error much less an error apparent on the face of record. Secondly, the financial position of the petitioner is not a matter which could not have been discovered on exercise of due diligence by the petitioner nor is it a matter which came to be discovered subsequent to passing of order after exercise of due diligence, instead it was within the knowledge of the petitioner even at the time of filing of the writ petition, but possibly not duly communicated to the counsel who consented, rather volunteered, to pay 25% of the disputed tax. Thus, it appears neither of the above grounds are available to the petitioner to seek the review of the order of this Court dated 23.01.2025.

8. Petitioner would also rely on an affidavit filed by the learned counsel on record Mr. Kumar Ramaswamy wherein it has inter alia been stated as follows:



WEB COPY



Rev.Aplw. No.180 of 2025

“5. Pertinently, the Petitioner had never approached me directly, and all correspondence and instructions were always routed through the consultant Mr. Murugesan Selvakumar and therefore, there was always a gap in communication and instructions. Because of this arrangement I did not have the benefit of direct and updated financial details or instructions from the Petitioner regarding their financial position and their ability to comply with any conditions of pre-deposit at the time of hearing.

6. When the Writ Petition was listed for hearing on 23.01.2025, I made submissions in respect of the impugned order on the basis of my limited knowledge of the circumstances of the Petitioner. Further, in view of the judgement of the Hon'ble Court in the case of M/s. K Balakrishnan, Balu Cables vs O/o. the Assistant Commissioner of GST and Central Excise in WP (MD) No. 11924 of 2024, and under a mistaken impression that such a direction would not cause undue prejudice to the Petitioner, I gave consent for deposit of 25% of the disputed tax amount, which I now realise was erroneous in view of the Petitioner's actual financial position.”

9. It may be relevant to note that the above review petition was filed sometime in June 2025 and had come up for hearing on the following occasions viz., 23.06.2025, 03.07.2025 and 28.11.2025. The affidavit of Mr. Kumar Ramaswamy, counsel for petitioner has been filed only on



Rev.Aplw. No.180 of 2025

02.12.2025. Importantly, this Court was informed that the petitioner may not be in a position to obtain an affidavit from the earlier counsel on record Mr.Kumar Ramaswamy, on earlier occasions. This I would think indicates lack of bonafides on the part of the petitioner.

10. Importantly, the impugned order of assessment dated 27.04.2024 was filed after the period of limitation for filing an appeal had expired. The above condition of 25% of disputed taxes which was directed as a pre-deposit for setting aside the order and directing the respondent to redo the assessment was also made keeping in view the delay in preferring the present writ petition, apart from consent/concession made by both the counsel for the petitioner as well as the respondent.

11. Importantly, nowhere in the grounds of review has the petitioner explained the reason for the delay. It is only in the written submission that the petitioner has come up with the submission that if the impugned order is bad for want of jurisdiction, non-filing of writ petition within the statutory period for filing an appeal does not dis-entitle the petitioner to seek relief

10/14



Rev.Aplw. No.180 of 2025

under Article 226 of the Constitution. In this regard, reliance was also sought to be placed on the judgment of the Supreme Court in the case of *Mafatlal Industries v. Union of India*, reported in 1997, 5 SCC 536.

12. While this Court is conscious that while exercising power under Article 226 of the Constitution, this Court may not be strictly bound by the statutory period of limitation nor can limitation be prescribed for filing a writ petition under Article 226, however for this Court to exercise its discretion, there must at least be reasons set out explaining the delay. However, neither in the grounds filed in support of the review petition nor in the written submission any explanation is offered for the delay. This is yet another reason why this Court is not inclined to entertain this review petition inasmuch as the approach of the petitioner appears to be extremely callous and causal and not vigilant. It is trite that this Court would come to the aid of only those who are vigilant.

13. In view of the above discussion, this Court finds that the above judgments may not have any applicabilities to the facts of the present case.



Rev.Aplw. No.180 of 2025

14. Further reliance on Mafatlal Industries may also be misplaced, inasmuch as Mafatlal was a case, where it was dealing with the refund of taxes, that has been levied and collected by State without authority of law, thereby offending Article 265 of the Constitution.

15. For all the reasons stated above, this Court finds no merit in the Review Petition. Review petition stands dismissed. No costs.

27.02.2026

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

Spp



Rev.Aplw. No.180 of 2025

To:
WEB COPY

State Tax Officer,
Kodungaiyur Assessment Circle,
Room No.203, 2nd Floor, No.32,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.



WEB COPY



Rev.Aplw. No.180 of 2025

MOHAMMED SHAFFIQ, J.

Spp

Review Application No.180 of 2025
against
W.P. No.1732 of 2025

27.02.2026