IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-01-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

WA No. 10 of 2026

AND CMP NO. 132 OF 2026

BLD Design StudioRep by its Partner, T. Ramesh,
No.21/4, 77/4, 31st Cross Street, Kamaraj Nagar,
Besant Nagar, Chennai-600 090

..Appellant(s)

Vs

The Assistant Commissioner of GST and Central
ExcisePerungudi Division, 8th Floor, MHU
Complex, Nandanam, Chennai-600 035

..Respondent(s)

WA No. 10 of 2026

APPEAL filed clause 15 of the Letters Patent to set aside the order dated 10.07.2025 made in W.P.No.24979 of 2025 and allow the prayer made in the said Writ Petition and thus render justice.

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For Appellant(s): Mr. M.A.MUDIMANNAN
For Respondent(s): Mr.Rajendra Ragavan SPC

Judgment

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

Mr.Rajendran Raghavan, learned Senior Panel Counsel accepts notice for the respondent and is armed with necessary instructions to enable us to dispose this Writ Appeal, even at the stage of admission.

2. This Writ Appeal is filed challenging order dated 10.07.2025 dismissing the Writ Petition filed by the appellant challenging an order of assessment dated 26.06.2023 passed in terms of the provisions of the Finance Act, 1994 (in short 'Act') levying service tax.

3. The Writ Court has dismissed the Writ Petition noticing that a show cause notice had been issued by the officer on 20.04.2022 (wrongly stated as 29.04.2022) and a detailed reply has been filed by the appellant. Thereafter, three opportunities of personal hearing had been granted vide notices dated 24.11.2022, 30.11.2022 and 03.03.2023 which the appellant did not avail.

4. It was in the aforesaid circumstances that the order of assessment dated 26.06.2023 came to be passed by the respondent. The Writ Court was of the view that there was no merit in the matter and no violation of principles of natural justice and dismissed the Writ Petition.

5. Before us, Mr.Mudimannan, learned counsel for the appellant would attempt to argue the merits of the matter, claiming that the receipts are exempt by virtue of a Mega Notification and the entire assessment is based only on data found in Form 26AS. We are however disinclined to consider these submissions as they involve appreciation of questions of fact. The appellant could well have put forth his case before the Assessing Authority which it failed to do, despite sufficient opportunities having been granted.

6. Learned counsel would then pray that the appellant be relegated to

statutory appellate remedy. Mr.Raghavan would vehemently object to the plea pointing out that the order of assessment is dated 26.06.2023 and the Writ Petition was instituted only on 26.06.2025, exactly two years after the order of assessment. Finance Act, 1994 provides for a period of 60 days for filing a first appeal and the first appellate authority is vested with the power to condone delay upto 30 days. The present Writ Petition has been filed long past the period of limitation provided under the Act.

7. A perusal of the affidavit filed in the Writ Petition does not reveal any justifiable reason for condonation of delay. There is a passing reference in paragraph 6 of the writ affidavit that the petitioner was constrained on account of a health condition and could not meet the consultant to take appropriate steps. This is only an incidental statement and no records have been placed in support thereof. Hence, it lacks credibility.

8. The settled position in law is that delay beyond the statutorily condonable period may be considered only if there is a justifiable reason for the same, or if sufficient cause made out.

9. In such circumstances, power under Article 226 of the Constitution of India is wide enough for the Court to have taken note of the cause made out, and condone the delay. Such a situation does not arise in this case.

10. Mr.Raghavan would however accede that if the entirety of the tax demand is paid, he would have no objection to the assessee being permitted to file a statutory appeal. The appellant agrees with this suggestion and as both

DR.ANITA SUMANTH J.
AND
MUMMINENI SUDHEER KUMAR J.

parties are in agreement, we do not wish to stand in the way of the resolution that they have arrived at.

11. Hence, upon condition that the entirety of the tax demand is remitted within a period of four (4) weeks from today, the appellant is permitted to file an appeal before the first appellate authority, which will be received by the authority without reference to limitation, but ensuring compliance with all other statutory conditions. Nevertheless to state, if the appellant succeeds in the appeal, naturally it is entitled to a refund of the amount paid.

12. This Writ Appeal is dismissed with liberty as aforesaid. No costs. Connected Miscellaneous Petition is closed.

(A.S.M.,J.) (M.S.K.,J.)
09-01-2026

Index: Yes
Speaking order
Neutral Citation: Yes
SL

To
The Assistant Commissioner of GST and Central
ExcisePerungudi Division, 8th Floor, MHU
Complex, Nandanam, Chennai-600 035

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