IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

WA Nos. 108 and 112 of 2026
AND
CMP NOS. 1001, 997 and 989 OF 2026

M/s SMG Enterprises and Engineering Contractor,
Rep. by its Proprietor, M.Srinivasan,
Plot No.100, Flat No.AI-18,
2nd Floor, 4th Avenue,
Shanthi Colony, Anna Nagar, Chennai 600040 ..Appellant in both W.A.'s

Vs

The Assistant Commissioner (ST) (FAC),
Intelligence-I, Commercial Taxes Building,
PAPJM Building, Room No.133,
1st Floor, No.1, Greams Road,
Chennai-600006 ..Respondent in both W.A.'s

Common Prayer: Appeals filed under Clause 15 of Letters Patent to set-aside the Order dated 10.06.2025 made in W.P.Nos.20157 and 20163 of 2025 on the file of this Court.

In both W.A.'s

For Appellant(s): Mr.Rajkumar P

For Respondent(s): Ms.Amirta Dinakaran
Government Advocate

COMMON JUDGMENT

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

Ms.Amirta Dinakaran, learned Government Advocate who accepts notice for the respondent, is armed with necessary particulars to enable us to dispose the appeals even at this juncture.

2. We have heard both learned counsel in detail and have considered the material papers. By consent expressed by both learned counsel, final orders are passed disposing these appeals, even at the stage of admission, as both parties have made detailed submissions on the merits of the matter and taken us through the relevant statutory provisions as well.

3. W.A.No.108 of 2026 relates to W.P.No.20157 of 2025 which challenges order in Form GST DRC-07 dated 27.08.2024 accompanied by a detailed order of assessment of even date. The period of assessment is 2019-2020.

4. Insofar as the appellant has challenged the order of assessment dated 27.08.2024 by way of Rectification Petition under Section 161 of the Tamil Nadu Goods and Services Tax Act, 2017 (in short 'TNGST Act, 2017'), we are of the considered view that this Writ Petition is not maintainable.

5. Having chosen a statutory remedy for rectification of mistakes, the appellant ought not to have ridden two horses and instituted the Writ Petition

also. That apart, the Writ Petition that was instituted on 02.06.2025 is also untenable as it is barred by limitation.

6. For these, and other reasons adduced in the order under appeal, we concur with the order of the learned Judge that the challenge in W.P.No.20157 of 2025 is not liable to be entertained.

7. W.A.No.112 of 2026 relates to W.P.No.20163 of 2025, which challenges order dated 24.01.2025 along with detailed order of even date, passed under Section 161 of the TNGST Act, 2017. We have heard the learned counsel in regard to the alleged errors that had been assailed in order dated 24.01.2025.

8. The issues relate to computation of turnover, in respect of which factual details will have to be ascertained. Ms.Amirta Dinakaran, learned Government Advocate for the respondent submits that an appeal will lie to the first appellate authority under Section 107 of the TNGST Act, 2017 as against 'any decision or order' passed under the TNGST Act, 2017.

9. Hence, order passed under Section 161 for rectification of errors apparent on the face of record, will also be exigible to first appeal in accordance with Section 107. In the aforesaid circumstances, we are disinclined to consider the challenge by way of extraordinary jurisdiction under Article 226 of the Constitution of India.

10.The appellant refers to a decision of the Division Bench of this Court in *State of Tamil Nadu v. Speedline Agencies*[1] to argue that no appeal remedy would be available as against an order rejecting an application for rectification of assessment.

11. In *Speedline Agencies*[2], the Court was concerned with a Tax Case (Revision) filed by the State challenging an order of the Tamil Nadu Sales Tax Appellate Tribunal (in short 'STAT'/'Tribunal'). The sequence of events in that case was, that, as against an order of assessment, the assessee filed an appeal before the Appellate Assistant Commissioner (in short 'AAC') that came to be rejected.

12. The assessee moved a petition for rectification before the AAC under Section 55 of the Tamil Nadu General Sales Tax Act, 1959 (in short 'TNGST Act, 1959') that provides for rectification of errors apparent on the face of record. The rectification sought was on the ground that certain 'C' forms had been produced before the assessing officer that had not been taken into consideration by the officer. The AAC rejected the application, as against which the assessee approached the Tribunal. The Tribunal allowed the appeal remitting the matter to the assessing authority and directing him to pass a fresh assessment order on the basis of the 'C' forms produced by the assessee.

[1] 114 STC 359

[2] Footnote Supra (1)

13. In appeal by the Revenue, the High Court held that the Tribunal did not have the power of considering an order passed by the appellate authority rejecting an application seeking rectification. Though Section 36 does not provide for an appeal as against an order passed by the Appellate Assistant Commissioner under Section 55, making reference only to an order passed by the first Appellate Authority under Section 31(3), Section 31A(3) or Section 32(1), Section 55(4) provides for appeals and revision as against an order of rectification, as they apply to the order in respect of which such order of rectification has been made.

14. In *Speedline*[3], the Court considered the position that the power of rectification is an additional right limited to the correction of errors apparent on the face of the record. If the authority dealing with a rectification application believes that there are no such errors, no appeal would lie as against such an order, as the original order of assessment/appeal would remain untouched and the assessee has a right of appeal or revision statutorily against the original order. Thus, it is only if the rectification application was allowed, that the original order would be disturbed giving rise to an order amenable to appeal

15. The scheme under the TNGST Act, 2017 is a little different as the Act provides specifically for an appeal against an order under Section 161 thereof under Section 107, rather than stipulating an indirect means, as provided under

[3] Footnote Supra (1)

Section 55(4) of the TNGST Act, 1959. Section 107 opens stating that, any person aggrieved by any decision or order passed under this Act, may appeal to such appellate authority as may be prescribed, within three months from the date on which the decision/order is communicated to such person.

16. Section 107 is worded in wide terms and hence there is need for Mr.Rajkumar to apprehend that the appellate authority would be circumscribed by consideration of only the question of jurisdiction under Section 161 of the Act. Such an apprehension is also allayed by the Government Pleader who confirms that the powers of an appellate authority under Section 107 are co-terminus with the powers of an assessing officer, and as a sequitur, the adjudication in appeal would encompass all aspects of the matter. This is recorded.

17. The order passed in the rectification petition is dated 24.01.2025 and Section 107 provides for a limitation of 120 (90 + 30) days for institution of an appeal. The Writ Petition has been instituted on 02.06.2025. The impugned order has been uploaded on 24.01.2025 itself and hence the Writ Petition has been instituted beyond the condonable period of delay.

18. Having regard to the fact that Ms.Amirta does not stand in the way of institution of an appeal, and to the detailed discussions as above, we are of the

considered view that this is an appropriate case where the delay is liable to be condoned and we condone the same.

19. Appeals, if filed within a period of four weeks from date of receipt of this order, shall be entertained by the first appellate authority without reference to limitation, but ensuring compliance with all other statutory conditions, including pre-deposit.

20. W.A.No.108 of 2026 is dismissed and W.A.No.112 of 2026 is dismissed with liberty as above. No costs. Connected miscellaneous petitions are closed.

(A.S.M.,J.) (M.S.K.,J.)
22-01-2026

Index: Yes
Speaking order
Neutral Citation: Yes
sl/vs

To

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Intelligence-I, Commercial Taxes Building,
PAPJM Building, Room No.133,
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