BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.03.2026

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P(MD)No.5642 of 2026**
**and**
**W.M.P(MD)No.4699 of 2026**

Tvl.Deepalakshmi Coirs
Rep by its Proprietor Balakrishnan Susila
C/o.Muthu
5/117, Kuruvarpatti,
Kottampatti Post,
Melur Taluk,
Madurai District-625 106 ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of Commercial Taxes,
Exhilagam, Chepauk,
Chennai-600 005.

2.The Deputy Commercial Tax Officer/
The Deputy State Tax Officer-1,
Melur Assessment Circle,
Commercial Taxes Complex,
Dr.Thangaraj Salai,
Madurai-625 020 ...Respondents

Writ Petition is filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned order of the 2nd respondent in Ref.No.ZD330225276157F/2020-21 dated 26.02.2025 and quash the same.

For Petitioner :Mr.B.Rooban
For Respondents :Mr.R.Suresh Kumar
Special Government Pleader

**ORDER**

This writ petition is filed challenging the impugned order of the second respondent dated 26 to 2025 bearing Ref.No.ZD330225276157F/2020-21 dated 26.02.2025.

2.Upon hearing the learned counsel for the petitioner and perusing the material records of the case, it can be seen that even though a show cause notice was issued to the petitioner, the petitioner had filed a reply to the showcase notice and thereafter, when the assessment order was passed and it is said to have been uploaded in the web-site on 26.02.2025, the petitioner did not avail the appellate remedy.

3.When the matter came up for arguments, even though the original prayer is challenging the impugned order of the assessment, the counsel by placing reliance on the judgments in ***Nandhini Ginning Factory -vs- The Assistant Commissioner, Sankari Assessment Circle, Office of the Assistant Commissioner(State Taxes), 1st Floor, Tiruchengode Road, RDO***

***Office Complex, Sankari-637 301(W.P.No.47935 of 2025)*** and ***M/s.Coastal Plasto Chem Private Limited, Represented by its Director Shantilal Jain -vs- State Tax Officer, Purasawakkam Assessment Circle, Central-II, Chennai Central, Tamil Nadu(W.P.No.36672 of 2025)*** would pray that it would be enough if the petitioner is given an opportunity to file an appeal as against the assessment order upon additional conditions to deposit additional amount other than 10% mandatory pre deposit amount.

4.Per contra, the learned Additional Government Pleader would submit that the petitioner has suffered the assessment order and it has become final, when the statutory regime is clear providing alternative remedy of the appeal with the limitation period and that too, when there is an outer condonable limit, this Court under Article 226 of the Constitution of India cannot enlarge the period of limitation or interfere with the order on merits, especially when the petitioner choose not to file an appeal as against the order.

5.I have considered the rival submissions made on either side and perused the material records of the case.

6.It is true that the that the law has been laid down by the Hon'ble Supreme Court that when there is an outer condonable limit, it becomes mandatory and either the assessing authority themselves or this Court under Article 226 of the Constitution of India cannot extend the law of limitation. Secondly, it is also held that when these statutory orders are subject to the statutory regime of appeal and merely because, the petitioner has failed and neglected to avail the appeal remedy, this Court under Article 226 of the Constitution of India, cannot enable the petitioner to once again challenge the order and challenge the order cannot also be entertained on the merits of the matter.

7.Useful reference in this regard can be made to the judgment of the Hon'ble Supreme Court in ***Commissioner of Customs and Central Excise -vs- Hongo India Private Limited and another(2009) 5 SCC 7***91 and in ***Assistant Commissioner(CT) LTU, Kakinada and Others -vs- Glaxo Smith Kline Consumer Health Care Limited(2020 SCC Online SC 440)***.

8.However, the relevant factors in this case are twofold. The total tax liability of the petitioner is stated to be Rs.2,58,952/- and as such, the petitioner is a small timer, the same is noted. Secondly, the reasons that are mentioned for not filing the appeal is also noted. The distinguishing feature in this case is that the service was not effected in other mode, but as per Section 169(1)(D) of the Act that is by making the order available on the common portal. It is true that the Rule also enable the authorities to make the order available on the common, that is deemed service. Therefore, the question arises is that in cases of deemed service as the one in the present case also, whether or not the Court under Article 226 of the Constitution of India. Exercise the equitable jurisdiction in providing an opportunity for filing an appeal is the question. Considering these kind of situations, which were not considered in *Glaxo case(cited supra)*etc, and also imposing additional condition of deposit of additional amount of tax, this Court, in individual cases, depending upon the circumstances, has exercised the discretion. In view thereof, I am of the view that this is one of the fit case as an extraordinary matter, such a discretion can be exercised.

9.In view thereof, this Writ Petition is disposed of on the following terms:

(i)Within one week from the date of receipt of the web copy of the order, without waiting for the certified copy of the order, the petitioner shall prefer an appeal, as against the impugned order of assessment.

(ii)The appeal shall also accompany by a deposit receipt of depositing 25% of the disputed tax under the order.

(iii)Upon such filing of the appeal along with 25% pre deposited amount, the appeal shall be treated as having been filed in time and shall be dealt with on its own merits in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

02.03.2026

NCC:Yes/No
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To
1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of
Commercial Taxes,
Exhilagam, Chepauk,
Chennai-600 005.

2.The Deputy Commercial Tax Officer/
The Deputy State Tax Officer-1,
Melur Assessment Circle,
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Dr.Thangaraj Salai,
Madurai-625 020

**D.BHARATHA CHAKRAVARTHY, J.**

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