BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18.03.2026

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THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.7385 of 2026
and
W.M.P(MD)Nos.6052 and 6055 of 2026

Tvl.S.Mariappan ... Petitioner

Vs.

1.The Commissioner(Appeal)
Office of the Commissioner of GST and Central Excise (Appeals)
Coimbatore
Circuit Office at Madurai
No.4, Lal Bahadur Sasthri Road,
GST Bhawan, Bibikulam,
Madurai-625 002.

2.The Commissioner,
Office of the Commissioner of CGST and Central Excise,
Central Revenue Building,
Bibikulam,
Madurai-625 002.

3.The Joint Commissioner,
Office of the Joint Commissioner of CGST & Central Excise,
Central Revenue Building,
Tractor Road, NGO 'A' Colony,
Tirunelveli-627 007. ...Respondents

Writ Petition is filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for records on the file of the 3rd respondent pertaining to the impugned assessment order in original No. 06/JC/ST/2021 DIN:20210359X0000000F3C3 dated 31.03.2021, 2nd respondent impugned order in File No.GEXCOM/REV/ST/OIO/3221/2021-REV-SC-TLVL-CGST-Madurai dated 18.06.2021 and common order in appeal on the file of the 1st respondent in the appeal proceedings in A.No. 07/2021-ST(D) and A.No.27/2021-ST dated 19.02.2025 and quash the same as illegal and devoid of merits.

For Petitioner	:Mr.Raja Karthikeyan
For Respondents	:Mr.N.Dilipkumar Standing Counsel

ORDER

This writ petition is filed challenging the impugned assessment order in originally dated 31.03.2021, 18.06.2021, and the common order in appeal dated 19.02.2025.

2.Upon hearing the learned counsel for the petitioner and perusing the material records of the case, it can be seen that a show cause notice was issued against the petitioner on 19.09.2019 with reference to four assessment years: 2014-15, 2015-16, 2016-17, and 2017-18. The petitioner, inter alia, contended that the show cause notice is also time barred as well as on the merits of the case. Thereafter, the impugned orders of assessment were passed whereby the assessee's claim was partly accepted and partly his claim was negated. Aggrieved thereby, both the revenue as well as the assessee filed an appeal in A.No.7 of 2021 and A.No.27 of 2021. By a common order dated 19.02.2025, while finding in favor of the revenue that the proceedings are reopened within time and that the liability can be decided further, the appellate authority has now remanded the matter back to the original authority for determining the tax liability. Aggrieved by the same, the present writ petition is filed.

3.The learned counsel would submit that perusal of the Appellate Authority would smack the arbitrariness inasmuch as the Appellate Authority erred in holding the question as to limitation against the petitioner. The show cause notice was bereft of particulars about the misstatements and therefore the alleged initiation would not be an initiation at all. The impugned order is also attacked on other grounds.

4.When the matter came up for hearing,Mr.N.Dilipkumar, learned Standing Counsel, taking notice for the respondents, submitted that the impugned order was passed as early as on 19.02.2025. There is an alternative remedy of appeal before the Appellate Tribunal under Section 86 of Finance Act, 1984. Without availing the alternative remedy within the period of limitation being 90 days, having allowed the order to become final, when the further proceedings are now going on before the original authority, the present writ petition is filed and as such need not be entertained.

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

6.Considering the nature of plea that is raised and the overall facts and circumstances of the case, where under both the revenue as well as the assessee were aggrieved by the original proceedings and by the common order, the appeals were disposed of, I am of the view that an opportunity can be given to the petitioner for filing an appeal before the Tribunal to agitate the matter as the grounds raised are all relating to the merits of the order that is passed by the Appellate Authority. Even though the petitioner should have filed an appeal on or before 19.05.2025, I am of the view that an opportunity can be granted to the petitioner to file an appeal.

7.In view thereof this writ petition is disposed of on the following terms:

(i)The petitioner shall prefer an appeal on the file of the Appellate Tribunal under Section 86 of the Finance Act 1994, within a period of two weeks from the date of receipt of the web copy of the order.

(ii)If the same is filed within the said time, the appeal shall be treated as within the time and shall be entertained by the Tribunal and orders in accordance with law shall be passed on merits. No cost. Consequently, connected miscellaneous petitions are closed.

18.03.2026

NCC:Yes/No
Ns

D.BHARATHA CHAKRAVARTHY, J.

Ns

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