



WEB COPY

WA No. 1739 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-07-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MRS.JUSTICE N. MALA

WA No. 1739 of 2026

AND

CMP NO. 15988 OF 2026, CMP NO. 15986 OF 2026

Balu Kumaran
Proprietor,
Danyasri Import and Export,
O.No.29, N.No.30,
Hussain Maistry Street,
Royapuram,
Chennai 013,.

..Appellant(s)

Vs

The Deputy Commercial Tax Officer II
Assessment Circle II,
Chennai North,
Royapuram,
Chennai 013.

..Respondent(s)

WA No. 1739 of 2026

Writ appeal filed under Clause 15 of Letters Patent to set aside the order dated 22.01.2026 passed in WP No.2582 of 2025 insofar as it imposes the condition of depositing 50 percentage of the disputed tax consequently 1 uash the assessment order dated 10.07.2023 or in the alternative remand the matter for fresh adjudication without any pre deposit condition and pass such further or other orders as this Honble Court..

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For Appellant(s):

K N Nataraaj
M. Senthilkumar
M. Murali Krishna
K. Janakiraman

For Respondent(s):

Ms.Amirta Poongodi Dinakaran, GA[Taxes]

Judgment**(Judgment of the Court was delivered by Dr.G.Jayachandran J.)**

- (1) Ms.Amirta Poongodi Dinakaran, learned Government Advocate [Tax] accepts notice on behalf of the respondent.
- (2) By consent, the writ appeal is disposed of at the admission stage itself.
- (3) The intra-Court appeal is preferred by the assessee, being aggrieved by the order of the learned Single Judge, dismissing the writ petition challenging the Assessment Order dated 10.07.2023, on the ground that the assessee has not responded to the show cause notice dated 29.03.2023, issued before passed the Assessment Order. However, taking note of the fact that the GST registration of the appellant was cancelled as early as on 21.07.2020, and with a view to afford an opportunity to the assessee to contest the Assessment Order on merits, the learned Single Judge, remanded the matter back to the respondent for fresh consideration



and directed the assessee to file the reply to the show cause notice along with requisite documents to substantiate his case subject to the appellant/assessee depositing 50% of the disputed tax confirmed vide order dated 10.07.2023, within a period of thirty days and if any such reply along with the deposit of 50% of the disputed tax is received, the authority was directed to pass final order on merits and in accordance with law, within three months of such reply being received.

- (4) The learned counsel for the appellant/assessee submitted that imposition of 50% of disputed tax as pre-deposit, while exercising jurisdiction under Article 226 of the Constitution, is violative of principles of natural justice. The learned counsel submitted that expecting a reply to the show cause notice through GST portal, after cancellation of GST registration, is unjustifiable and procedurally impracticable. Citing the judgments of the Hon'ble Supreme Court regarding conditions imposed, when there is a statutory remedy that specific condition as bad in law, the learned counsel for the appellant submitted that even for an appeal, the statute provides only 10% of the disputed tax as pre-condition to prefer an appeal, whereas imposition of 50% of the disputed tax to participate in the adjudication proceedings, is onerous.
- (5) This Court is not oblivious of the judgments of the Apex Court. However, those are cases where there was participation by the assesseees in the adjudication proceedings and who had preferred the statutory appeal as



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contemplated under the statute. Whereas, in the present case, the Assessment Order was passed on 10.07.2023, after affording opportunity to the assessee to participate in the adjudication proceedings by way of show cause notice dated 29.03.2023. Having failed to participate in the adjudication proceedings and in stead of preferring a statutory appeal against the Assessment Order, the assessee has approached this Court by filing a writ petition by invoking Article 226 of the Constitution of India. In the said circumstances, the learned Single Judge, having found that the assessee, having failed to participate in the adjudication proceedings and having failed to exhaust the appellate remedy available under the statute, afforded the assessee an opportunity, who has missed the legal remedy contemplated, to submit the reply along with the requisite documents, however, on condition to deposit 50% of the disputed tax. We do not find any violation of the statute or the dictum laid down by the Hon'ble Supreme Court in this regard.

- (6) On the basis of equity, the learned Single Judge, has afforded an opportunity to the appellant/assessee to participate in the adjudication proceedings though three years had lapsed after the passing of the Assessment Order.
- (7) Hence, we **dismiss the writ appeal**, granting thirty days time from the date of receipt of a copy of this order, to the appellant to comply with the conditional order of deposit of 50% of the disputed tax and agitate his



cause as directed by the learned Single Judge. No costs. Consequently,
the connected miscellaneous petitions are closed.

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(G.J.,J.) (N.M.,J.)
06-07-2026

Index: Yes/No
Neutral Citation: Yes/No
Internet: Yes

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To
The Deputy Commercial Tax Officer II
Assessment Circle II,
Chennai North,
Royapuram,
Chennai 013.



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**DR.G.JAYACHANDRAN J.
AND
N.MALA J.**

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