IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-07-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MRS.JUSTICE N. MALA

WA No. 1924 of 2026
and
CMP No. 17119 of 2026

P. Raju Contractor,
Rep. by its Proprietor,
Mr.P, Raju,
Doing business at
No. 29, Maniyammah Nagar,
Dharapuram,
Tiruppur, TamilNadu -638 656.

..Appellant(s)

Vs

1. The Deputy Commercial Tax Officer,
   Tiruppur-III,
   Tamil Nadu.

2. The Deputy State Tax Officer-2,
   Dharapuram Circle,
   Dharapuram.

..Respondent(s)

Writ Appeal is filed under Clause 15 of Letter Patent Act, to set aside the order dated 04.03.2026 made in W.P No.8104 of 2026.

For Appellant(s): Mr.Rajendra Prasad

For Respondent(s): Mr.R.Sethu Prabakaran, GA

JUDGMENT

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

(1) The appellant herein is a civil contractor, registered under GST Act. For the year 2018-2019 for his failure to pay GST, show cause notice under Section 73 of the GST Act was caused, calling upon him to pay the tax based on the audit report from the AG's office. To the notice for personal hearing on various dates, the appellant failed to respond. The final notice for hearing was issued on 17.04.2024 and thereafter final Assessment Order in original was passed on 24.08.2024. The appellant thereafter sent a representation on 10.11.2025 stating that he was unaware of the fact that he should pay 12% GST for the turnover arising out of his work contract and that due to his old age, he had stopped taking any contract after 2019-2020. The appellant had received certificate from the Dharapuram Amaravathy Water Resources Division for Rs.5,70,101/- pertaining to Accounting Year 2018-2019, which showed that the Assessment Order wrongly indicated that his total turnover as Rs.8,55,160/- an excess of Rs.2,85,059/- over the admitted turnover. While so, the appellant took a Demand Draft for Rs.1,62,660/- dated 10.11.2025 and remitted the same to the Deputy State Tax Officer, Dharapuram. Thereafter, it appears that the appellant gave a remainder to the authorities reiterating his

stand. Finally, he filed a Writ Petition before this Court under Article 226 seeking to issue a Writ of Certiorari to call for the records of the 2nd respondent in GSTIN: 33ACFPR3923E1ZU/2019-2020 dated 24.08.2024, DRC-07 Ref.No. ZD330824226247E dated 25.08.2024 for the assessment year 2019-2020.

(2) The learned single Judge after considering the scope of Section 73 of the GST Act, particularly sub-section 5 and 8 and the contention of the learned counsel for the petitioner in the representation as well as in the writ affidavit dismissed the writ petition, granting liberty to the appellant herein to approach the respondent under Section 80 of the GST Act to seek payment of the tax dues in installments, provided the same is permissible under law.

(3) Not being satisfied with the liberty granted, intra-Court appeal is filed on the ground that the show cause notice giving opportunity of hearing was purportedly issued by the authorities after the appellant surrendered his GST license. Therefore, no proper notice was issued to the assessee to defend his case. The appellant after knowledge of the impugned Assessment Order, voluntarily paid a sum of Rs.1,62,660/- towards tax liability, despite disputing the Assessment Order. While so, instead of giving an opportunity to the appellant to agitate his case on merits, the learned Single Judge, dismissed the writ petition, holding that petitioner cannot seek quashment of the impugned

order, since he admitted the tax liability and sought only for waiver of the penalty.

(4) In this regard, the learned counsel for the appellant submitted that the appellant has not admitted the tax liability in full. The observation of the learned Single Judge, regarding the contention raised in the representation that demand of tax for alleged total turnover of Rs.8,55,160/- is incorrect while the tax payable is only Rs.5,70,101/-. The question regarding demand of tax on excess turnover was the main contention of the appellant which is left unanswered.

(5) We heard the learned counsel appearing for the appellant and the learned Government Advocate for the Department.

(6) At the outset, the representation of the appellant appears to be reasonable and requires consideration. However, on an analysis of the provisions of the Act and the appellant's own explanation, it is clear that he has not paid the GST liability in time, even while he was actively carrying on business. It is only after the final order-in-original was passed that the appellant came forward to pay a part of the tax demanded. To be precise, though the final order in original was passed on 24.08.2024, he gave his representation during the month of November, 2025 and thereafter paid a portion of the tax. That apart, based on the A.G's audit report, the impugned assessment has been made by the Department, having found that the appellant had not submitted his GST

account for the relevant period i.e 2018-2019, though the payment to him by the Panchayat was reflected in the audit account submitted by them and scrutinised by the A.G's officer.

(7) It is pertinent to note that the inability of the appellant for not attending the personal hearing pursuant to the notice and not participating in the assessment process cannot be a reason for his failure to pay the GST at the appropriate time when it was due. The penalty clause is invoked only being satisfied that non-payment of the tax is willful and a deliberate evasion. From his representation it is seen that the explanation for not remitting GST in time is due to the appellant's ignorance. We infer from the representation that the difference in turnover which he projected is probably due to the non-disclosure of one of the contracts he fulfilled during the relevant time, the non-disclosure which he attributes to his loss of memory.

(8) In any event, these being questions of fact and since law does not permit entertaining belated appeals, this Court cannot travel beyond the scope of the statute. Hence, in the said context, we find that the learned Single Judge has given liberty to the writ petitioner to approach the authority for payment of penalty in instalments, if law permits. The non-payment of service tax in time, even for the admitted turnover and the non-disclosure of portion of the turnover, which is reflected in the accounts of the service receiver, makes it

clear that the appellant has not come to this Court with clean hands for the Court to entertain his prayer.

(9) The learned Single Judge after considering all these facts has dismissed the writ petition, giving limited liberty to the appellant herein to espouse his cause. We find no further liberty can be granted to the appellant. Hence, Writ Appeal stands **dismissed**. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(G.J.,J.) (N.M.,J.)
29-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The Deputy Commercial Tax Officer
   Tiruppur-III,
   Tamil Nadu.

2. The Deputy State Tax Officer 2
   Dharapuram Cricle,Dharapuram.

DR.G.JAYACHANDRAN J.
and
N.MALA J.

dsn

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