



WEB COPY



W.P.No.20001 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20001 of 2024
and
W.M.P.Nos.21899 & 21901 of 2024

S.M.Jayaprakash

... Petitioner

Vs.

The Assistant Commissioner (ST),
Salem Rural Assessment Circle,
Salem.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the Respondent herein in GSTIN/33ADCPJ8805B3Z0/2017-18 in DRC-07 proceedings dated 29.09.2023 & 30.09.2023 and quash the same.

For Petitioner : M/s. Siri Chandana K
for Mr.Sriram

For Respondent : Mr.C.Haroha Raj,
Additional Government Pleader (Taxes)



W.P.No.20001 of 2024

ORDER

WEB COPY

This writ petition has been filed challenging the impugned proceedings dated 29.09.2023 and 30.09.2023 passed by the Respondent.

2. Mr.C.Haroha Raj, learned Additional Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the show cause notice dated 14.06.2023 was issued to the Petitioner, for which the Petitioner submitted his reply dated 14.06.2023, but the Respondent after rejecting the said reply on the ground that the petitioner had not filed the FORM GSTR-2A copies/relevant records passed the impugned proceedings on 29.09.2023 and 30.09.2024. Being aggrieved over the same, the Petitioner filed a Appeal before the Learned Deputy Commissioner (ST) (GST) (Appeals), Erode and Salem on 27.02.2024, which was rejected by the said authority, on the ground that there was a delay of 28 days in filing the Appeal and the 2nd Respondent has no power to condone the same.



W.P.No.20001 of 2024

WEB COPY

4. Though the impugned proceedings dated 29.09.2023 and 30.09.2023, were under challenge in this Writ Petition, the learned counsel for the Petitioner requested this court to condone the delay in filing the Appeal before the Deputy Commissioner (ST) (GST) (Appeals), Erode and Salem on 27.02.2024 and the said authority may be directed to take the Appeal on file and pass appropriate orders.

5. The learned Additional Government Pleader (Taxes) appearing for the respondents has stated no objection to condone the delay and requested this Court to pass appropriate order to the respondent for disposal of the appeal filed by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondents and also perused the materials available on record.

7. In the present case, it appears that the Petitioner filed an Appeal before the Respondent with a delay of 28 days and the same was rejected



W.P.No.20001 of 2024

on the ground of delay. Considering the fact that the delay is only 28 days and in view of the settled proposition of law that when substantial justice is pitted against technical consideration, credence should be given to the substantial justice, this Court is inclined to condone the delay of 28 days in filing the Appeal before the Appellate authority. Accordingly, this Court passes the following order:-

(i) Accordingly, the rejection order dated 26.04.2024 passed by the Appellate authority viz., the Deputy Commissioner (ST)(GST)(Appeals), Erode and Salem, Salem is set aside and the delay of 28 days in filing the appeal before the said authority is condoned.

(ii) The authority concerned is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to the petitioner, as expeditiously as possible.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

08.08.2024



W.P.No.20001 of 2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

arr



W.P.No.20001 of 2024

KRISHNAN RAMASAMY.J.,

arr

To

1. The Assistant Commissioner (ST),
Salem Rural Assessment Circle,
Salem.
2. The Deputy Commissioner of (Appeals),
Erode and Salem, Salem.

W.P.No.20001 of 2024
and
W.M.P.Nos.21899 & 21901 of 2024

08.08.2024



WEB COPY



W.P.No.20001 of 2024

08.08.2024