IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.370 of 2025
and
W.M.P.Nos.413 and 415 of 2025

M/s.Royal Furnitures,
Represented by its Proprietor
Mr.Vadivelmurugan Thangaraja,
No.55,VeeraRaghavan Road,
Tondiarpet, Chennai-600 019.

... Petitioner

Vs.

The Assistant Commissioner (ST)
Tondiarpet North II, Chennai North,
Integrated Commercial Taxes Office Complex,
Room 206, No.1275/3,Bridge Road,
Vepery, Chennai- 600 003.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in GSTIN:33AACPT63281Z2/2021-22 Dated 26.08.2023 along with Form DRC-07 in Reference No.ZD3308231557373 dated 26.08.2023 and quash the same as arbitrary, excessive and without jurisdiction under the GOODS and Service Tax Act, 2017.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr. C.Harsha Raj
Special Government Pleader
(Taxes)

ORDER

This writ petition has been filed challenging the impugned order dated 26.08.2023 passed by the Respondent and to quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes) 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 submitted that the 1st respondent issued show cause notice dated 08.06.2023 to the petitioner. Since the petitioner being a small concern entrusted the work relating to

filing of returns to the sale tax consultant, who failed to bring to the knowledge of the petitioner about the show cause notice, the petitioner was not aware of the same and hence failed to submit its reply. Subsequently, the respondent passed the assessment order dated 26.08.2023, against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2021-2022. The petitioner came to know of the same only after the recovery of the amount from his bank by the respondent. Immediately, the petitioner filed an appeal with delay of 208 days. However, the same was rejected by the Appellate authority vide order dated 17.10.2024, on the ground of delay. Being aggrieved over the same, the petitioner filed this writ petition.

4. The learned counsel for the petitioner would submit that the petitioner could not be file appeal within time as the petitioner was unaware of the impugned proceedings due to the reason that sales tax consultant to whom the petitioner has entrusted the work relating to GST failed to inform about the same. The petitioner came to know of the

same only after recovery of tax dues made by the respondent through the bank attachment.

5. At this stage, the learned counsel for the petitioner would submit that though a challenge has been made with respect to the assessment order, he requested this Court to condone the delay and direct the appellate authority to dispose of the appeal within the stipulated period.

6. The learned Government Advocate (Taxes) appearing for the respondents would submit that since the appellate authority has no power to condone the delay beyond the period of limitation, the appeal filed by the petitioner came to be rejected. Further, he would submit this Court may condone the delay subject to terms.

7. In reply, the learned counsel for the petitioner would submit that the petitioner has already deposited 10% of the disputed tax at the

time of filing appeal and now ready to deposit another 15% of disputed tax over and above the 10% before the authority concerned.

8. Heard both sides and also perused the materials available on record.

9. In the present case, it was stated by the petitioner that since the petitioner being a small concern entrusted the work relating to filing to return to the sales tax consultant, who failed to bring to the knowledge of the petitioner regarding the impugned proceedings, the petitioner was unaware of the same. The petitioner came to know of the assessment order only after recovery of tax dues by the respondent by way of bank attachment. Therefore, the petitioner could not file appeal within time and that apart now the petitioner is ready to deposit 15% of disputed tax over and above 10% before the authority concerned.

10. Considering the aforesaid facts 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 set aside the impugned order passed by the 1st respondent dated 17.10.2024 and condone the delay of 208 days in filing the Appeal before the appellate authority. Accordingly, this Court passes the following order:-

(i) Accordingly, the oder dated 17.10.2024 passed by the appellate authority is set aside and the delay of 208 days in filing the appeal before the appellate authority is condoned subject to payment of 15% of disputed tax demand as agreed by the petitioner before the appellate authority.

(ii) On such payment being made, the appellate authority respondent 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.

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

09.04.2025

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

The Assistant Commissioner (ST)
Tondiarpet North II, Chennai North,
Integrated Commercial Taxes Office Complex,
Room 206, No.1275/3,Bridge Road,
Vepery, Chennai- 600 003.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.370 of 2025

07.04.2025