IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.04.2025

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.4144 of 2025**
**and**
**W.M.P.Nos.4649 and 4650 of 2025**

M/s.Synerg Engineers Pvt Ltd.,
Represented by CEO Sri.Prakash, K
707/1, Ground Floor, CTH Road
Mannurpet, Padi,
Chennai 600 050.
... Petitioner

**Vs.**

1. The Assistant Commissioner (ST)
   Korattur Assessment Circle
   Room No.332, Third Floor,
   Integrated CT & Registration Building
   571, Anna Salai, Nandanam
   Chennai 600 035.

2. The Deputy Commissioner of ST (Appeals-II)
   Greams Road, Chennai-600 006.
... Respondents

**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 relating to the impugned order ref:GSTIN 33AAUCS8864P2Z3/2021-2022 dated 22.09.2023 along with summary order in Form DRC-07 ref.No.ZD330923152116K dated 22.09.2024 passed by the Respondent and quash the same being arbitrary and direct the respondent to refund the excess payments recovered from the petitioner.

For Petitioner : Ms.N.Asmitha

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader
(Taxes)

**ORDER**

This writ petition has been filed challenging the impugned order dated 22.09.2023 passed by the 1st Respondent and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice on behalf of the Respondents. 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 21.07.2023 to the petitioner, by uploading the same in the GST portal, without serving physical copy of the same to the petitioner. The petitioner came to know of the same only after the issuance of the recovery notice. Immediately, the petitioner filed an appeal before the 2nd respondent with delay of seven months. However, the same was rejected by the 2nd Respondent vide order dated 19.03.2024, 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, due to the reason that since the assessment order was uploaded in the GST portal without serving physical copy of the same to the petitioner, the petitioner was unaware of the same. The petitioner came to know of the same belatedly. Therefore, he would submit that though a challenge has been made with regard to the assessment order, this Court may condone the

delay and direct the 2nd respondent to dispose of the appeal within the stipulated period. Further, he would submit that the entire tax liability has been recovered from the petitioner.

5. The learned Additional Government Pleader (Taxes) appearing for the respondents would submit that since the 2nd respondent has no power to condone the delay beyond the period of limitation, the appeal filed by the petitioner came to be rejected. However, he fairly submitted that this Court may condone the delay. As far as contention with regard to payment of disputed tax liability is concerned, he would submit that appropriate orders may be passed subject to verification.

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

7. In the present case, it was stated by the petitioner that since the assessment order was uploaded in the GST portal without serving physical copy of the same to the petitioner, the petitioner was unaware of

the same. The petitioner came to know of the assessment order only after the initiation of the recovery proceedings.

8. 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 order passed by the 2nd respondent dated 30.10.2024 and condone the delay of seven months in filing the Appeal before the 2nd Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the order dated 30.10.2024 passed by the 2nd respondent is set aside and the delay of seven months in filing the appeal before the 2nd respondent is condoned.
>
> (ii) On such payment being made, the 2nd 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.

(iii) The Respondent is at liberty to recover 25% of the disputed tax liability in case, if no amount has been recovered from the petitioner, as contended by the counsel for the petitioner.

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

**24.04.2025**

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

To

1. The Assistant Commissioner (ST)
   Korattur Assessment Circle
   Room No.332, Third Floor,
   Integrated CT & Registration Building
   571, Anna Salai, Nandanam
   Chennai 600 035.

2. The Deputy Commissioner of ST (Appeals-II)
   Greams Road, Chennai-600 006.

**KRISHNAN RAMASAMY.J.,**

arr

**W.P.No.4144 of 2025**
**and**
**W.M.P.Nos.4649 and 4650 of 2025**

**24.04.2025**