IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.4055 of 2025
and
W.M.P.Nos.4554 and 4557 of 2025

Tvl.Aquasilk Inc.
Rep. by its Partner K.Singaravelu,
No.43, Ranganathapuram,
15-VelampalayamRing Road,
Sirupooluvapatti Post, Tiruppur,
Tamil Nadu-641603.
... Petitioner

..Vs..

1.The Deputy Commissioner (CT),
Appellate Authority,
GST Appeals,
Tiruppur.

2. The Deputy State Tax Officer,
Gandhi Nagar Assessment Circle,
No.16, Emperor Building,
Avinashi Road Indira Nagar 1st Street,
Tiruppur-641603.
... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the 2nd respondent in Form DRC-07 with reference no.ZD330424137123W dated 17.04.2024 passed under Section 73 of the TNGST Act, 2017 and the quash the same as illegal, devoid of merits and in violation of principles of natural justice.

For Petitioner : Mr.Varun Pandian

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

ORDER

This writ petition has been filed challenging the impugned order of the 2nd respondent dated 17.04.2025 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 2nd

respondent issued show cause notice dated 27.12.2023 to the petitioner, for which the petitioner filed its reply on 27.01.2024. But the 2nd respondent without considering the same has passed the impugned assessment order dated 17.04.2024, against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2018-2019. Immediately, the petitioner filed an appeal before the 1st respondent on 20.08.2024 challenging the assessment order, with a delay of 34 days. The 2nd Respondent vide order dated 26.10.2024 dismissed the appeal on the ground of delay.

4. The learned counsel for the petitioner would submit that due to ill health the petitioner could not file appeal in time He further submitted that though a challenge has been made with regard to impugned assessment order, it would suffice if this Court condones the delay and direct the 1st respondent to dispose of the appeal within the stipulated period.

5. The learned Additional Government Pleader (Taxes) appearing for the respondents would submit that since the delay is beyond the

condonable period, the appeal filed by the petitioner came to be rejected. However, he would fairly submit that the delay may be condoned on terms.

6. 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 additional 10% of disputed tax over and above the 10%, which was already deposited before the authority concerned.

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

8. Considering the aforesaid submissions made by the learned counsel appearing on either side and on perusal of records it is seen that due to ill health the petitioner could not file appeal in time.

9. In view of the same,this Court is of the view that the reasons assigned by the petitioner for the delay in filing the appeal appears to be

genuine. Hence, this Court is inclined to set aside the order passed by the 1st respondent dated 17.04.2024 and condone the delay of 34 days in filing the Appeal before the 1st Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the order dated 17.04.2024 passed by the 1st respondent is set aside and the delay of 34 days in filing the appeal before the 1st respondent is condoned subject to payment of 10% of disputed tax demand before the 1st respondent, within a period of three weeks from the date of receipt of a copy of this order.
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> (ii) On such payment being made, the 1st 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 petitions are also closed.

24.04.2025

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

1.The Deputy Commissioner (CT),
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GST Appeals,
Tiruppur.

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KRISHNAN RAMASAMY.J.,
arr

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