IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.4398 of 2025
and W.M.P.No.4899 & 4901 of 2025

Tvl. Sri Karpaga Vinayagha Trading,
Rep by its Prop. G. Ramanathan,
M1, Anna Kudiruppu,
S.V.Mills Post,
Udumalpet Taluk – 642 126. .. Petitioner

Vs.

The Assistant Commissioner (ST),
Udumalpet (North) Assessment Circle,
Udumalpet – 642 126. .. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, calling for the records of the respondent in his order in GSTIN:33ASSPR4258D1ZG/2017-18 dated 30.12.2023 and quash the same.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records of the respondent in his order in GSTIN: 33ASSPR4258D1ZG / 2017-18 dated 30.12.2023 and quash the same.

2.Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that the petitioner has filed an appeal before the Appellate Authority with the delay of 113 days, by depositing 10% statutory pre-deposit of the disputed tax liability. The Appellate Authority has power to condone the delay of only 30 days and since the Appellate Authority has no scope to condone the delay which is more than 30 days, the appeal got rejected.

5.He would further submit that the reason for non-filing of appeal in time is that the petitioner did not receive the physical copy of the impugned order dated 30.12.2023. Only in the month of July 2024, the petitioner came to know about the impugned order when he received a call from the respondent office demanding the tax penalty. Thereafter, the petitioner preferred an appeal on 22.07.2024, with the delay of 113 days. However, the Deputy Commissioner GST Appeal, Erode rejected the appeal on the ground that the appeal has been filed beyond the condonable limit with a delay of 83 days. Therefore, though the petitioner has sought for larger relief in this petition, he had restricted his relief to the extent to request this Court to condone the delay of 83 days in filing the appeal.

6.Mrs.K.Vasanthamala, learned Government Advocate appearing for the respondent would submit that in the present case, since the Appellate Authority has no scope to condone the delay more than 30 days, the appeal filed by the petitioner was dismissed in limini. She would further submit that if the Court satisfied with the reason assigned by the petitioner for the delay, the Court may condone the delay and the petitioner may be directed to pursue the appeal in accordance with law.

7.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

8.Though the petitioner prayed for larger relief, he has restricted his relief and requested this Court to condone the delay in filing the appeal against the impugned assessment order since it will be sufficient to meet out the case of the petitioner. Further, the reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine.

9.In view of the above, though this petition has been filed challenging the impugned order dated 30.12.2023, considering the submissions made by the petitioner, this Court is inclined to condone the delay of 83 days in filing the appeal against the impugned assessment order.

10.Accordingly, this Court passes the following order:

(i) The delay of 83 days in filing the appeal against the impugned assessment order dated 30.12.2023 is hereby condoned.

ii) The Appellate Authority is directed to take the appeal on record and consider the said appeal filed by the petitioner on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation.

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

12.02.2025

rst
Index : Yes/No
Neutral Citation: Yes/No

To:
The Assistant Commissioner (ST),
Udumalpet (North) Assessment Circle,
Udumalpet – 642 126.

KRISHNAN RAMASAMY, J.

rst

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