IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.4554 of 2025
and W.M.P.Nos.5071 & 5073 of 2025

M/s.Erin Cottage,
Rep by its Proprietor Mr.Mohammed Jaffer Sadiq,
#24, Erin Vill, Singara Estate Road,
Coonoor, The Nilgiris, Coimbatore,
Tamil Nadu 643 101

... Petitioner

Vs.

The State Tax Officer,
Coonoor Assessment Circle,
Uthagamandalam,
Coimbatore, Tamil Nadu.

... 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 of the impugned order in Ref.No.ZD330524012680U dated 03.05.2024 passed under Section 73 of CGST/TNGST Act, 2017 for the Financial Year 2019-20 and uploaded along with the summary of order in DRC07 from the files of the respondent herein and quash the same.

For Petitioner : Ms.Aparna Nandakumar

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 03.05.2024 passed by the respondent.

2. Mr.T.N.C.Kaushik, 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 in the present case, initially, the show cause notice dated 08.01.2024 was issued by the respondent, for which, a detailed reply dated 26.02.2024 has been filed by the petitioner. Thereafter, the impugned order dated 03.05.2024 came to be passed by the respondent, whereby the disputed tax liability of a sum of Rs.1,47,568/- has been confirmed. Pursuant to the said order, the petitioner had paid the entire tax amount, along with interest and penalty, to the respondent.

4. Thereafter, since the petitioner was professionally advised that there was no liability that had to be borne by the petitioner, they instructed their consultant to file a statutory appeal against the impugned order. In the meantime, the petitioner's consultant expired, due to which they were unable to file their appeal within time.

5. Further, he would submit that now, the petitioner is willing to file an appeal against the said impugned assessment order. Therefore, though he had sought for larger relief in this petition, he had restricted his relief to the extent to request this Court to condone the delay of 3 months in filing the appeal and also to grant liberty to the petitioner to file an appeal before the concerned Appellate Authority.

6. In reply, the learned Additional Government Pleader appearing for the respondent had also confirmed that the petitioner had already paid the entire tax amount along with interest and penalty and hence, he requests this Court to pass any appropriate orders with regard to the filing of appeal.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and also perused the materials available on record.

8. In the present case, it appears that now the petitioner is willing to file an appeal against the impugned assessment order dated 03.05.2024 passed by the respondent. Today, the learned counsel for the petitioner has restricted his relief and requested this Court to grant liberty to the petitioner to file an appeal against the impugned assessment order since it will be sufficient to meet out the case of the petitioner.

9. Further, the reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. That apart, the entire tax amount, including interest and penalty, has already been paid by the petitioner.

10. In view of the above, though this petition has been filed challenging the impugned order dated 03.05.2024, considering the

submissions made by the petitioner, this Court is inclined to condone the delay of 3 months and grant liberty to the petitioner to file an appeal against the impugned assessment order.

11. Accordingly, this Court passes the following order:

i) The delay of 3 months in filing the appeal against the impugned assessment order dated 03.05.2024 is hereby condoned.

ii) The liberty is granted to the petitioner to file an appeal before the concerned Appellate Authority within a period of 30 days from the date of receipt of copy of this order.

iii) In such case, the Appellate Authority shall 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.

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

closed.

10.02.2025

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

To

The State Tax Officer,
Coonoor Assessment Circle,
Uthagamandalam,
Coimbatore, Tamil Nadu.

KRISHNAN RAMASAMY.J.,

nsa

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& W.M.P.Nos.5071 & 5073 of 2025

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