IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5994 of 2025

Sri Selvanayaki Printing Works,
Represented by proprietor, Mr.senniappa
Velaythanadar Rajarathinam (deceased),
through their son Mr.Jacob Rajvel Rajarethnam,
No.4, Na, G A Road, 6th Lane,
Chennai -600021

... Petitioner

Vs.

The Office Of Deputy Commissioner (ST)(FAC)
GST-Appeals , Chennai-1,
Chennai-600 008

... 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 relating to the impugned order bearing No. ZD331124249782G issued by the respondent dated 26.11.2024 pertaining to GSTN 33ADYPR3676G1ZV and quash the same and further direct the respondent to hear the appeal on merits in accordance with law after granting opportunity of personal hearing to the petitioner.

For Petitioner	:	Ms.S.Sandhya
For Respondent	:	Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 26.11.2024 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, 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 the petitioner's father, who was the Proprietor of M/s.Sri Selvanayaki Printing Works, was passed away on 12.12.2020. Subsequently, the business was discontinued and the GST Registration voluntarily cancelled with effect from 31.12.2020. Thereafter, the respondent had passed the impugned order dated 22.04.2024 against the petitioner's

father, who is a dead person. Being unaware of the impugned order, the petitioner has failed to file the appeal within time. They came to know about the said order only when the recovery notice dated 16.09.2024 was issued. Immediately, they had filed an appeal against the said assessment order, however, the same was rejected by the respondent vide order dated 26.11.2024 on the aspect of limitation. Hence, he requests this Court to set aside the impugned order.

4. On the other hand, the learned Government Advocate appearing for the respondent also accepted the submissions made by the learned counsel for the petitioner. Hence, she requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

6. In the present case, it is clear that the assessment order dated 22.04.2024 was passed by the respondent against a dead person, i.e., petitioner's father, who was passed away on 12.12.2020. Since the business was discontinued and GST Registration was cancelled with effect from 31.12.2020, the said order remained unnoticed by the petitioner. They came to know about the said order only when the recovery notice dated 16.09.2024 was issued by the respondent. Subsequently, they filed an appeal against the assessment order on 18.11.2024, however, the same was rejected by the respondent vide the impugned order dated 26.11.2024 on the aspect of limitation.

7. As per the provisions of Section 13 of the Information Technology Act, 2000, in the event of uploading the notice or order in the portal, the receipt of the same occurs only at the time when the said electronic record is retrieved by the Assessee. In this case, the petitioner had retrieved the assessment order only after the issuance of recovery notice, i.e., after 16.09.2024. If the said date (16.09.2024) is taken into consideration, there will not be any delay in filing the appeal and hence,

the date of the filing of appeal, by the petitioner, is well within the limitation.

8. For all the reasons stated above, this Court is inclined to set aside the impugned order dated 26.11.2024. Accordingly, this Court passes the following order:

> (i) The impugned rejection order dated 26.11.2024 passed by the respondent is hereby set aside.
>
> (ii) The respondent is directed to take the appeal on record, if it is otherwise in order, and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to the petitioner, as expeditiously as possible.

9. With the above directions, this writ petition is disposed of. No costs.

20.02.2025

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

nsa

KRISHNAN RAMASAMY.J.,

nsa

To

The Office Of Deputy Commissioner (ST)(FAC)
GST-Appeals , Chennai-1,
Chennai-600 008

W.P.No.5994 of 2025

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