IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.6719 of 2025
& W.M.P.Nos.7375 & 7376 of 2025

M/s.Bhavani Agro Agencies,
Sole Proprietorship,
Rep by Nanjappagounder Mohanraj,
273-1, Karattupalayam,
Chinnathambipalayam Post,
Anthiyur Taluk,
Erode 638 501.

... Petitioner

Vs.

1.The Deputy Commissioner (Commercial Tax)(FAC),
Goods and Service Tax (Appeal),
Appellate Authority,
17, Pitchards Road,
Hasthampatty, Salem 636 007.

2.The Commercial Tax Officer,
State Tax Officer, Erode,
1, Brough Road,
Erode 638 001

... 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 of the impugned summary order in Form DRC -07 vide Ref.No.ZD331023006765T dated 03.10.2023 passed by the 2nd respondent and the subsequent dismissal of the impugned appeal order dated 25.10.2024 vide Ref.No.ZD331024199262L passed by the 1st respondent and quash the same and consequently direct the 1st respondent to hear the appeal filed by the petitioner on merits.

For Petitioner	:	Ms.R.Reshma
For Respondent	:	Mr.V.Prashanth Kiran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned summary order dated 03.10.2023 and impugned rejection order dated 25.10.2024 passed by the respondents.

2. Mr.V.Prashanth Kiran, learned Government Advocate, 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 would submit that

subsequent to the cancellation of GST Registration of the petitioner, all the notices were uploaded by the respondent in the portal, due to which, the petitioner was unable to file their reply. Under these circumstances, the impugned assessment order came to be passed. Being unaware of the said order, the petitioner was not in a position to file the appeal in time. Hence, there was a delay in filing the appeal, due to which, the respondents had rejected the appeal filed by the petitioner vide order dated 25.10.2024. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the respondents would submit that though all the notices and orders were duly uploaded by the respondents, the petitioner had failed to file the appeal in time. Hence, he would contend that the said delay has occurred only due to the fault on the part of the petitioner and requests this Court to pass appropriate orders.

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

6. In the present case, it appears that subsequent to the cancellation of GST Registration of the petitioner, all the notices and orders were uploaded by the respondents in the portal. Being unaware of the assessment order, the petitioner was unable to file the appeal in time, due to which, there was a delay in filing the appeal. However, this Court, being satisfied with the genuine reasons assigned by the petitioner, is inclined to condone the delay.

7. Further, though the petitioner had already paid 10% of the disputed tax amount as pre-deposit while filing the appeal, considering the exorbitant delay, this Court directs the petitioner to pay additional 5% of the disputed tax amount to the respondents. Accordingly, this Court passes the following order:-

(i) Accordingly, the rejection order dated 25.10.2024 passed by the 1st respondent is set aside and the delay in filing the appeal before the 1st respondent is hereby condoned, subject to the payment of 5% of the disputed tax amount by the petitioner to the respondent.

(ii) Upon payment of the said amount, the 1st respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

(iv) Further, the respondents are directed to instruct the concerned bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production proof with regard to the payment of 5% of the disputed tax amount to the respondent as stated above.

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

26.02.2025

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

To

1.The Deputy Commissioner (Commercial Tax)(FAC),
Goods and Service Tax (Appeal),
Appellate Authority,
17, Pitchards Road,
Hasthampatty, Salem 636 007.

2.The Commercial Tax Officer,
State Tax Officer, Erode,
1, Brough Road,
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<u>KRISHNAN RAMASAMY.J.,</u>

nsa

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