IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.8051 of 2025
and W.M.P.No.9016 of 2025

M/s.Akshaya Meditech,
Rep. by its Proprietor Naresh Araveti,
East Facing, Bajanai Koil Street,
D.No.263/10, Athipattu,
Friends alamaram Street,
Ambuttur, Chennai – 600 058. .. Petitioner

Vs.

1.Deputy Commissioner(CT) (Appeal,
Kanchipuram.

2.Deputy State Tax Officer-1 (ST),
Vanagaram Assessment Circle,
Integrated GST Building,
No.4/109, Chennai – Bangalore Highways,
Varadharajapuram, Nazarathpet,
Poonamallee, Chennai – 600 123. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Mandamus, directing the 1st respondent to condone the delay in filing the appeal pertaining to the impugned order passed by the 2nd respondent in Proceeding GSTIN 33ALZPA4299H1ZN/2018-19 dated

22.04.2024 and provide an opportunity to the petitioner to present his case under the principle of natural justice and decide the case on merits.

For Petitioner	: Mr.Sriram.L
For Respondents	: Mrs.K.Vasanthamala Government Advocte (T)

ORDER

This Writ Petition has been filed by the petitioner seeking to direct the 1st respondent to condone the delay in filing the appeal pertaining to the impugned order passed by the 2nd respondent in Proceeding GSTIN 33ALZPA4299H1ZN/2018-19 dated 22.04.2024 and provide an opportunity to the petitioner to present his case under the principle of natural justice and decide the case on merits.

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

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

4.Learned counsel appearing for the petitioner would submit that during the year 2018-19, the petitioner had filed their monthly returns GSTR-1 and GSTR-3B. While filing the return in Form GSTR-3B, the Input Tax Credit available in the IGST column in excess of Rs.13,78,837/- was wrongly adjusted towards the CGST and SGST dues. Therefore, the 2nd respondent observed that the Input Tax Credit declared through GSTSR-3B is wrongly claimed and the same was discharged through GSTR-3B returns leading to short payment of tax and issued a show cause notice dated 31.01.2024 proposing demand of tax of Rs.7,17,574/- towards CGST and Rs.7,17,574/- towards SGST along with interest and penalty. The show cause notice dated 31.01.2024 was only uploaded in the GST Portal and no physical initmation was made to the petitioner. Therefore, the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 22.04.2024 was also uploaded in the view additional notices column, which is violation of principle of natural justice.

5.He would further submit that since the show cause notice and the impugned order were uploaded in the GST portal, the petitioner was not aware of the same and when the petitioner preferred an appeal before the 1st respondent, by depositing 10% of the disputed tax demand in respect of the impugned assessment period, the same was rejected on the ground of delay for nearly 210 days. Therefore, the learned counsel for the petitioner, prayed to condone the delay and provide an opportunity to the petitioner to putforth their case by way of appeal.

6.Learned Government Advocate appearing for the respondents would submit that the delay is more than 120 days, which is beyond the condonation period and therefore, the appeal was rejected.

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

8.Upon hearing, it is seen that according to the petitioner, the petitioner was not aware of the show cause notice issued through the GST

Portal and the physical copy of the said show cause notice was not furnished to them. Therefore, they were not aware about the issuance of show cause notice and the impugned order and therefore, the delay of nearly 210 days has occurred. Thus, this Court is of the view that the reason assigned by the petitioner for the delay in filing the appeal against the assessment order, appears to be genuine. For filing the appeal, the writ petitioner had already paid 10% of statutory pre-deposit. Since there occurred a huge delay, this Court is inclined to direct the petitioner to pay 15% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court passes the following order:-

> (i) The delay of nearly 210 in filing the appeal against the impugned assessment order dated 22.04.2024 is hereby condoned.
>
> (ii)The Appellate Authority is directed to take the appeal on record without insisting upon the limitation aspect, subject to the payment of 15% of the disputed tax demand in addition to 10% statutory pre-deposit, i.e totally 25% of the disputed tax amount in respect of the impugned assessment.

(iii)The petitioner shall also file their reply/objection along with the required documents, before the Appellate Authority.

(iv)The Appellate Authority pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

11.03.2025

rst

Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

To:

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KRISHNAN RAMASAMY, J.

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