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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.8497 of 2025
and
WMP.Nos.9513 and 9515 of 2025

Mr.Vadugapalayam Mani Kaithachalamoorthy,
Proprietor,
Tvl.Amman Info Tech
105/107, Linga Gounder Street,
Odakkadu Tiruppur,
Tamil Nadu- 641602. ... Petitioner

Vs.

1.The Deputy Commissioner (ST)(GST)(Appeal),
Erode and Salem,
Station: Integrated New Commercial Taxes Building,
3rd Floor,S.F.No.400/1,7,8,46 Pudur B Village,
Erode-638002.

2. The State Tax Officer(FAC),
Tiruppur North-1 Assessment Circle,
Tiruppur. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the 1st Respondent herein in ROC.No.5502/2204/A1 dated 21.02.2025

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and GSTIN/Temp ID/UIN33AXGPK6349F1ZH dated 22.02.2025 and to quash the same.

For Petitioner	:	Mr.Jayaprathap A N R
For Respondents	:	Mrs.K.Vasanthamala Government Advocate (Taxes)

ORDER

This Writ Petition has been filed challenging the order of the 1st respondent dated 21.02.2025 and to quash the same.

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

3. By consent,this Writ Petition is taken up final disposal at the time of admission itself.

4. The learned counsel appearing for the petitioner would submit that since the 2nd Respondent uploaded the show cause notice dated 28.05.2024 along with two reminder notices in the "Additional Notices

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and Orders" column of the GST portal instead of "View Notices and Orders" column, the petitioner was unaware of the same and could not file his reply. Subsequently, the 2nd respondent passed the assessment order dated 22.08.2024 and the same was also uploaded in the "Additional Notices and Orders" column of the GST portal. The petitioner came to know of the impugned order only after getting a call from the bank regarding the attachment of his bank account. Immediately, the petitioner filed an Appeal before the 1st respondent as against the impugned order on 19.12.2024 and the 1st respondent vide orders dated 21.02.2025 and 22.02.2025 on the ground of delay.

5. Further, he would submit that though the Appeal filed by the petitioner is beyond 90 days and within a period of one month i.e., 27th day, the same is condonable as per Section 107(4) of the CGST/TNGST Act, 2017. But the 1st respondent without considering the same has rejected the Appeal on the ground of delay. Hence, he prays to set aside the impugned orders.

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6. The learned Government Advocate (Taxes) for the respondents would submit that since the petitioner has filed the Appeal with a delay of 27 days, the Appeal filed by the petitioner came to be dismissed. However, she fairly submitted that this Court may condone the delay and direct the 1st respondent to take the Appeal on file.

7. Considering the submissions made by the learned counsel appearing on either side and considering the fact that though the Appeal filed by the petitioner is beyond 90 days and within a period of one month i.e., 27th day, the same is condonable as per Section 107(4) of the CGST/TNGST Act, 2017, this Court is inclined to condone the delay of 27 days in filing the Appeal before the 1st Respondent as the cause for delay appears to be genuine. Accordingly, this Court passes the following order:-

> (i) Accordingly, the impugned orders dated 21.02.2025 and 22.02.2025 passed by the 1st respondent is set aside and the delay of 27 days in filing the appeal before the 1st respondent is condoned.

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

8. With the above said direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

12.03.2025

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

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<u>KRISHNAN RAMASAMY.J.,</u>
arr

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