IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9083 of 2025
AND
WP NO. 9088 OF 2025,WMP NO. 10192 OF 2025,WMP NO. 10199 OF 2025

M/s.Tvl Soorya Traders,
Represented by its Proprietor,
Ambika. M,
No.23, First Cross, Post Office Street,
Perambalur.

Petitioner(s)
in both W.Ps

Vs

The Assistant Commissioner(ST),
Ariyalur Assessment circle (FAC),
Ariyalur.

Respondent(s)
in both W.Ps

PRAYER in W.P.No.9083 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the impugned proceedings of the respondent in TIN No.

33533601410/2011-2012 dated 29.04.2019 and quash the same.

PRAYER in W.P.No.9088 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the impugned proceedings of the respondent in TIN No. 33533601410/2016-2017 dated 29.04.2019 and quash the same.

In both W.Ps

For Petitioner(s): Ms.R. Hemalatha

For Respondent(s): Mr.T.N.C.Kaushik, Additional Government Pleader (t)

COMMON ORDER

These writ petitions have been filed by the petitioner seeking to call for the records on the files of the impugned proceedings of the respondent in TIN No. 33533601410/2011-2012 and TIN No.33533601410/2016-2017 dated 29.04.2019 and quash the same.

2.Learned counsel appearing for the petitioner would submit that the petitioner is engaged in the wholesale trading of food products. On 23.12.2016, a team of Enforcement Wing officials conducted a surprise inspection at the petitioner's place of business. Following the inspection, the respondent issued a pre-revision notice dated 28.06.2017, alleging that the petitioner wrongly claimed Input Tax Credit; suppressed sales turnover and wrongly claimed exempted sales. In response, the petitioner submitted detailed objections on 17.07.2017. Despite the objections, the Assessing Officer passed the final assessment orders for the years 2011-12 and 2016-17, thereby dropping two issues and proceeded with one issue. Since the petitioner was not served with the copy of the impugned order, they could not file appeal in time. Even the recovery notice dated 25.11.2022 came to be issued by the respondent. But, the respondent has not furnished the impugned order in original, due to which, . Hence, the present writ petition has been filed.

3.Mr.T.N.C.Kaushik, learned Additional Government Pleader appearing for the respondent would submit that since the issue is pertaining to the non-furnishing of the hardcopy of the impugned order, which prevented the petitioner from filing appeal in time, if the Court feels it appropriate, liberty may be granted to the petitioner to file appeal subject to the deposit of 25% of the disputed tax amount.

4.Learned counsel for the petitioner also acceded the submissions made by the learned Additional Government Pleader appearing for the respondent.

5.Heard the learned counsel for the petitioner as well as the Additional Government Pleader appearing for the respondent and perused the materials available on record.

6.Though the petitioner prayed for larger relief, he has restricted his relief and requested this Court to condone the delay in filing the appeal against the impugned assessment order since it will be sufficient to meet out the case of the petitioner.

7.Considering the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent, it is evident that there is an inordinate delay on the part of the petitioner in filing the appeal against the impugned assessment orders. The ground raised by the petitioner for the inordinate delay is that since the hard copy of the impugned orders dated 29.04.2019 were not furnish to the petitioner, they were not in a position to file appeal in time. Thus, this Court is of the view that the reason assigned by the petitioner for the delay in filing the appeal against the assessment orders, appears to be genuine. For filing the appeal, the writ petitioner has to deposit 10% 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 in filing the appeal against the impugned assessment orders dated 29.04.2019 are 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 as agreed by the petitioner in addition to 10%

statutory pre-deposit, i.e totally 25% of the disputed tax amount in respect of the impugned assessment period.

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

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

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

03-04-2025

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

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To

The Assistant Commissioner(ST),
Ariyalur Assessment circle (FAC),
Ariyalur.

KRISHNAN RAMASAMY J.

rst

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