IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9793 of 2025
AND
WMP NO. 10989 OF 2025

M/s Joseph Battery Works,
(GSTIN33CLDPS0575A1ZG)
Rep. By Its Proprietor
Mr. Senthil Kumar,
No. 155 10b Na, Salem Main Road ,
Mettur, Salem 636 456.

Petitioner(s)

Vs

1.Deputy Commissioner (ST)(GST)(Appeal)
Integrated Commercial Taxes Building,
Room No.233, Second Floor,
No.17, Pitchards Road, Salem 7.

2.Assistant Commissioner (ST),
Mettur Assessment Circle, Namakkal,
No. 6-1-182 Sakthi Naqar,
Raman Nagar Post, Salem Main Road,
Mettur Dam 635 404,
Salem.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Mandamus, to direct the 1st respondent to condone the delay in filing the Appeal pertaining to the Impugned Order passed by the 2nd respondent in proceedings GSTIN. 33CLDPS0575A1ZG/2018-2019, dated 18.07.2023 and provide an opportunity to the Petitioner to present his case under the principle of natural justice and decide the case on the merits and as per law.

For Petitioner(s): Mr.L.Sriram
for M/s.Chennai Law Firm

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (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 proceedings GSTIN. 33CLDPS0575A1ZG/2018-2019, dated 18.07.2023 and provide an opportunity to the Petitioner to present his case under the principle of natural justice and decide the case on the merits and as per law.

2.Learned counsel for the petitioner would submit that in the present case, the show cause notice dated 28.02.2022 was issued by the 2nd respondent, observing that the tax liability declared in GSTSR-1 is more than the tax discharged through GSTR 3B returns leading to short payment of tax of CGST of Rs.6,94,689/- & SGST of Rs.6,94,689/-. Since the said notice was uploaded in the GST portal and the petitioner was not alerted any physical copy or email, the petitioner could not file reply. Even the personal hearing notice and the impugned assessment order were uploaded in the GST Portal and no physical intimation was sent to the petitioner.

3.He would further submit that aggrieved over the assessment order dated 18.07.2023, the petitioner filed an appeal before the 1st respondent with a delay of 74 days. The 1st respondent had dismissed the appeal at the threshold on the ground of limitation. Hence, the present writ petition has been filed to condone the delay and to direct the 1st respondent to take the appeal on record, on any terms.

4.Learned Government Advocate appearing for the respondents would submit that since the appeal has been preferred beyond the statutory limitation period, the 1st respondent rejected the appeal. He would further submit that if the Court satisfied with the reason assigned by the petitioner for the delay, the Court may condone the delay and the petitioner may be directed to pursue the appeal in accordance with law.

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

6.Considering the submission made by the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents, it appears that the 1st respondent had dismissed the appeal at the threshold on the ground of limitation. However, the reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. Therefore, this Court is inclined to condone the delay of 74 days in filing the appeal against the impugned assessment order. Accordingly, this Court passes the following order:

(i) The delay of 74 days in filing the appeal against the impugned assessment order dated 18.07.2023 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 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.

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

03-04-2025

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

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To

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KRISHNAN RAMASAMY J.

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