IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 10557 of 2025
AND
WMP NOS. 11887 & 11888 OF 2025

Tvl. A.R.C Sons,
(Represented by its Proprietor Mr. A.R.
Sridhar)
86A, Bazaar Street, Salem 636 001.

Petitioner(s)

Vs

1. The State Tax Officer
Office Assistant Commissioner (ST)
Salem Bazaar Circle, Salem.

2.The Deputy Commissioner (Appeals)
GST,
2nd Floor, Integrated Commercial Tax
Building,
Pitchards Road, Salem 636 007.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for the records on the files of the

Respondent herein in FORM GST DRC-07 with Reference No. ZD330724295729R dated 24.07.2024 along with detailed order in GSTIN-33AGXPA7924J1Z1/2021-22 dated 24.07.2024, for the assessment period 2021-22 and quash the same.

For Petitioner(s): Mr.N.Chandirasekar

For Respondent(s): Mr.C.Harsha Raj, Special Government Pleader (Tax)

ORDER

Challenging the orders dated 24.07.2024 passed by the first respondent relating to the assessment period 2021-22, the petitioner had filed the present Writ Petition.

2. The learned counsel for the petitioner submitted that the petitioner is a dealer of various stationery items like paper and pencil etc., and registered under the Goods and Service Tax, Act, 2017. During the relevant period viz., 2021-22, the petitioner had filed its returns and paid the appropriate tax. On scrutiny of returns filed by the petitioner, it was noticed that there was mismatch between Form GSTR-2A and Form GSTR-3B.

3. Pursuant thereto, a show cause notice in Form DRC-01 dated 29.08.2023 was issued to the petitioner through GST common portal, for which, the petitioner had responded and sought time for filing a suitable and final reply. However, without considering the request made by the petitioner, the impugned order came to be passed by the first respondent, confirming the proposals.

4. Being aggrieved over the said order dated 24.07.2024, the petitioner filed an appeal before the second respondent/Deputy Commissioner (Appeals) GST, Salem, with a delay of 51 days along with 10% of the pre-deposit as prescribed under Section 107 of CGST/TNGST Act, 2017 and the same was rejected vide order dated 25.01.2025, on the ground that the appeal has been filed beyond the statutory period. He further submitted that since the petitioner was not aware of the order dated 24.07.2024, he was not able to file the Appeal within the period of limitation. He submitted that since the assessment order is under challenge before the second respondent, he requested this Court to condone the delay in filing the Appeal and direct the Appellate Authority to consider the appeal of the petitioner and pass appropriate orders.

5. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes) appearing for the respondents would submit that, if this Court is inclined to condone the delay, the same may be considered, subject to payment of 15% of the disputed tax demand.

6. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the respondents and also perused the material available on record.

7. In the present case, the petitioner had responded the said show cause notice dated 29.08.2023, and therefore, the petitioner cannot plead ignorance citing that the order was not served in person, since it was uploaded in the GST portal. Therefore, this Court is of the view that the reason assigned by the petitioner is not acceptable and, at any cost, this Court should not condone the delay by virtue of procedural lapse canvassed by the petitioner. Considering the fact that the petitioner has complied with the pre-condition of depositing 10% of the disputed tax at the time of filing of the Appeal, in the interest of natural

justice, and in order to give one more opportunity to the petitioner to put forth his claim, this Court is inclined to condone the delay of 51 days in filing the appeal, however, with certain conditions, as suggested by the learned Special Government Pleader for the respondents.

8. Accordingly, this Court is inclined to issue/pass following orders/directions:-

i) The impugned order of rejection of the Appeal passed by the second respondent/Appellate Authority dated 25.01.2025 is set aside, subject to the condition that the petitioner deposits additional 15% of the disputed tax (over and above the statutory deposit of 10%), within a period of two weeks from the date of receipt of a copy of this order.

ii) If the petitioner deposits the additional 15% of the disputed tax, within the time stipulated above, the second respondent/Appellate Authority is directed to take up the Appeal on its file and shall decide and dispose of the same on merits and in accordance with law, within a period of 30 days thereafter.

iii) The Appellate Authority is directed to ensure the payment of 25% of the disputed tax by the petitioner for the purpose of taking the appeal on its file.

9. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09-04-2025

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

To

1. The State Tax Officer
Office Assistant Commissioner (ST) Salem Bazaar Circle, Salem.

2.The Deputy Commissioner (Appeals) GST,
2nd Floor, Integrated Commercial Tax Building,
Pitchards Road, Salem 636 007.

KRISHNAN RAMASAMY J.

jd

WP No. 10557 of 2025

09-04-2025