IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.10006 of 2025
and
W.M.P.Nos.11216 and 11217 of 2025

Tvl.Sri Chennakesava Granites,
GSTIN:33BCWPM7166A2ZD,
Represented by its Proprietor S.Manivelan
15/1, 1B, 16/1A, Achamangalam Road,
Sathalapalli Village, BRG Medhapalli Post,
Bargur Tk, Krishnagiri-635 104. ... Petitioner

Vs.

1. The Deputy Commissioner (CT),
GST Appeals, Commercial Tax Office Buildings,
Hasthampatti, Pitchads Road, Salem-636 007.

2. The Assistant Commissioner (ST),
Krishnagiri-II Assessment Circle,
Krishnagiri-635 115. ... 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 pertaining to the impugned order in Form GST APL-02 reference no.ZD330225164572K dated 17.02.2025 issued by the 1st respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mr. C.Harsha Raj
Special Government Pleader
(Taxes)

ORDER

This writ petition has been filed challenging the impugned order dated 17.02.2025 passed by the 1st Respondent and quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes) takes notice on behalf of the Respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the Petitioner submitted that the 2nd Respondent has passed the assessment order dated 01.08.2022, against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2020-2021 and the same was uploaded in the GST Portal. Since the physical copy of the same was not served on the petitioner, the petitioner was unaware of the same. The petitioner came to know of the assessment order only after receipt of the bank

attachment notice. Immediately, the petitioner filed an appeal before the 1st respondent with a delay of 145 days. However, the same was rejected by the 1st Respondent vide order dated 17.02.2025, on the ground of delay. Being aggrieved over the same, the petitioner filed this writ petition.

4. The learned counsel for the petitioner would submit that the petitioner could not be file appeal within time, due to the reason that the assessment order was uploaded in the GST portal without serving through physical mode and therefore the petitioner was unaware of the same and hence could not file appeal within time. Therefore, he requested this Court to condone the delay and direct the 1st respondent to dispose of the appeal within the stipulated period.

5. The learned Special Government Pleader (Taxes) appearing for the respondents would submit that since the 1st respondent has no power to condone the delay beyond 120 days, the appeal filed by the petitioner came to be rejected. Further, he would submit this Court may condone the delay subject to terms.

6. In reply, the learned counsel for the petitioner would submit that the petitioner has already deposited 10% of the disputed tax at the time of filing appeal and now ready to deposit another 15% of disputed tax before the authority concerned.

7. Heard both sides and also perused the materials available on record.

8. In the present case, it was stated by the petitioner that due to the health condition of the petitioner's partner, the petitioner could not file appeal within time and that apart now the petitioner is ready to deposit 15% of disputed tax before the authority concerned.

9. Considering the aforesaid facts and in view of the settled proposition of law that when substantial justice is pitted against technical consideration, credence should be given to the substantial justice, this Court is inclined to set aside the impugned order passed by the 1st

respondent dated 17.02.2025 and condone the delay of 145 days in filing the Appeal before the 1st Respondent. Accordingly, this Court passes the following order:-

(i) Accordingly, the impugned order dated 17.02.2025 passed by the 1st respondent is set aside and the delay of 145 days in filing the appeal before the 1st respondent is condoned subject to payment of 15% of disputed tax demand before the 1st respondent.

(ii) On such payment being made, 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.

KRISHNAN RAMASAMY.J.,

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

24.03.2025

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

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