IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 01-04-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 11570 of 2025**
**AND**
**WMP NO. 13067 OF 2025,WMP NO. 13066 OF 2025**

Tvl The Palms
Rep by its partner Mr. Rakesh Harlaka,
3rd Floor, 18, Jubilee House,
Kesavaperumal Sannidhi Street,
Mylapore,
Chennai, Tamil Nadu 600 004.

Petitioner(s)

Vs

1. The Deputy Commissioner (CT),
GST Appeals, Chennai II,
Greams Road, Chennai 06.

2.The State Tax Officer,
Mandaveli Assessment Circle
Room No. 423, 4th floor,
Integrated Commercial Taxes Building,
Nandanam, Chennai 35.

Respondent(s)

**PRAYER:-**Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in order dated 24.10.2024 in FORM GST APL-02 in Reference No. ZD331024176468C and quash the same as illegal, arbitrary and in violation of principle of natural justice and further direct the 1st respondent to take up the appeal on file and dispose of the same on merits.

For Petitioner(s): Ms.C Rekhakumari

For Respondent(s): Mrs.K.Vasanthamala,
Government Advocate (t)

**ORDER**

This writ petition has been filed by the petitioner seeking to call for the records of the 1st respondent in order dated 24.10.2024 in FORM GST APL-02 in Reference No. ZD331024176468C and quash the same as illegal, arbitrary and in violation of principle of natural justice and further direct the 1st respondent to take up the appeal on file and dispose of the same on merits.

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

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that in the present case, the respondent uploaded DRC-01, reminders and the assessment order dated 30.12.2023 in "View Additional Notice and Orders" column on GSTN Portal, Since the said notices and reminders were uploaded under the column, viz., "View Additional Notices and Orders", in the GST portal, the petitioner had no occasion to view the same. Under these circumstances, *ex parte* impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner, which clearly amount to violation of principles of natural justice.

5.She would further submit that the petitioner came to know about the assessment order dated 30.12.2023 only when the 2nd respondent intimated the petitioner to pay the tax. Immediately after knowing about the assessment order dated 30.12.2023, the petitioner preferred an appeal against the assessment order dated 30.12.2023, before the Appellate Authority through GSTN portal with a delay of 87 days (excluding condonable period of 30 days). Further, the entire disputed tax amount in respect of the impugned assessment period has been paid by the petitioner. However, the 1st respondent rejected the appeal without providing any personal hearing opportunity on the ground that the appeal has been filed with a delay beyond the condonation period.

6.Learned Government Advocate appearing for the respondents would submit that the appeal has been filed with a delay of 87 days beyond the condonation period and therefore, the appeal got rejected. She 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.

7.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

8.Considering the submission made by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents, it appears that the appeal filed by the petitioner against the assessment order dated 30.12.2023 was dismissed since it has been filed with the delay beyond the condonation period. In the present case, the appeal was filed with the delay of 87 days beyond the condonation period due to the reason that since the show cause notice and the assessment order were uploaded in the GSTN portal, the petitioner was not aware of the same. The reason assigned by the petitioner for the delay in filing the appeal against the assessment order appears to be genuine. Further, it is also evident that the petitioner had remitted the entire disputed tax demand in respect of the impugned assessment period. Hence, this Court is inclined to condone the delay of 87 days in filing the appeal against the assessment order. Accordingly, this Court passes the following order:

(i) The delay of 87 days in filing the appeal against the assessment order dated 30.12.2023 is hereby condoned.

ii) The Appellate Authority is directed to take the appeal on record and consider the said appeal filed by the petitioner on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation.

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

**01-04-2025**

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

1.The Deputy Commissioner (CT),
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Greams Road, Chennai 06.

2.The State Tax Officer,
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**KRISHNAN RAMASAMY J.**

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