IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 11351 of 2025
and
WMP NO. 12798 OF 2025

1. M/s Central Railside Warehouse
Company limited
Railside Warehousing Complex,
Korukkupet Goods Terminal,
Vyasarpadi Chennai 39, (now Merged
With Central Warehousing Corporation)
Rep By Its Regional Manager, No. 4,
North Ave, Srinagar Colony, Saidapet
Chennai 600015.

Petitioner

Vs

1. The Appellate authority / Deputy
Commissioner
(GST Appeals), Chennai.

2.The Assistant Commissioner ST
Washermenpet Assessment Circle,
North Ii, Room No. 206, Integrated
Commercial Taxes Building, No.32,
Elephant Gate Road, Park Town,
Chennai 600 003.

Respondents

PRAYER: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records and quash the order dated 23.10.2024 passed by the 1st respondent in Ref No. ZD3310241649769 as being "Delay in Submission of Appeal" as being arbitrary and unjust and consequently direct the 1st respondent to take the appeal on the file and dispose of the same after giving opportunity to the petitioner.

For Petitioner:	Mr.D Baskar
For Respondents:	Mr.C.Harsha Raj, Special Government Pleader (Taxes)

ORDER

Heard Mr.D.Baskar, learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), who takes notice on behalf of the respondent. With consent of both sides, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 23.10.2024 passed by the 1st respondent as being "Delay in Submission of Appeal" as being arbitrary and unjust and consequently direct the 1st respondent to take the appeal on the file and dispose of the same after giving opportunity to the petitioner.

3. The learned counsel for the petitioner would submit that pursuant to the merger of the petitioner's Company with Central Warehousing Corporation with effect from 01.10.2022, the petitioner's registration was cancelled with effect from 02.11.2022. Thereafter, a show cause notice dated 23.06.2023 was issued to the petitioner by uploading the same in the GST portal. As the registration of the petitioner was cancelled, the portal was not accessed by the petitioner and hence they were not aware of the show cause notice and hence failed to submit its reply. Subsequently, assessment order was passed by the respondent on 28.07.2023 demanding tax along with interest and penalty, pursuant to which, the 2nd respondent passed an order to recover the outstanding due as per Section 79 of the Act. Only thereafter the petitioner came to know of the impugned assessment order. Being aggrieved by the assessment order dated 28.07.2023, the petitioner filed an Appeal before the 1st respondent and the same was rejected on the ground of delay.

4. Further, he would submit that pursuant to the cancellation of the registration, the petitioner has not accessed the GST portal and therefore not aware of the assessment proceedings being uploaded in the portal and therefore the appeal came to be filed with a delay of 6 months and 23 days. He therefore 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 stated that delay may be condoned on terms.

6. In reply, the learned counsel for the petitioner would submit that already 10% of the disputed tax has been deposited by the petitioner before the 1st respondent at the time of filing an appeal.

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

8. In the present case, pursuant to the cancellation of the registration, the petitioner has not accessed the GST portal and therefore not aware of the assessment proceedings being uploaded in the portal and therefore they filed the appeal with a delay of 6 months and 23 days.

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 23.10.2024 is set aside and condone the delay of 6 months and 23 days in filing the Appeal before the 1st Respondent. Accordingly, this Court passes the following order:-

(i) Accordingly, the impugned order dated 23.10.2024 passed by the1st respondent is set aside and the delay of 6 months and 23 days in filing the appeal before the 1st respondent is condoned subject to payment of ***25% (less 10% already deposited)*** 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.

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

28-03-2025

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

1.The Appellate authority / Deputy Commissioner
(GST Appeal), Chennai.

2.The Assistant Commissioner ST
Washermenpet Assessment Circle,
North II, Room No. 206, Integrated
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Chennai 03.

KRISHNAN RAMASAMY, J.

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