IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.11010 of 2025
and
W.M.P.Nos.12413 and 12415 of 2025

RPS Motors
Represented by its Proprietor:Mr.Krishnamoorthy Ravi
1540, Bharani Complex, Kanchi Road,
Vengikkal, Tiruvannamalai,
Tamil Nadu-606604. ... Petitioner

..Vs..

1. State Tax Officer,
   O/o Assistant Commissioner (ST)
   Tiruvanamalai-I Assessment Circle
   Integrated Commercial Taxes Building,
   Collectorate Complex,
   Tiruvanamalai-606604.

2. Deputy Commissioner (CT)
   Commercial Taxes Building,
   Bharathiyar Salai, Fort Round,
   Vellore-632001.

3. The Branch Manager,
HDFC Bank Ltd,
No.85,65, Sannathi Street,
Tiruvanamalai, Tamil Nadu-606601. ... 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 on the file of the 2nd Respondent in passing the impugned order in GSTIN No.33AJHPR2931D1ZH/2018-19 bearing ARN No.AD331024066415F dated 25.02.2025 for the Financial Year 2018-19 to quash the same as arbitrary, illegal and devoid of merit and consequentially direct the 2nd Respondent to reconsider the application filed by the Petitioner in GSTIN No.33AJHPR2931D1ZH dated 28.10.2024 after affording sufficient opportunity of being heard.

For Petitioner : Mr.Durga Bhatt

For Respondent : Mr.C.Harsha Raj
Special Government Pleader (Taxes)
(R1 and R2)

ORDER

The challenge in this writ petition is to the order dated 25.02.2025 passed by the respondent and to quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), takes notice on behalf of the respondents 1 and 2.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner would submit that the 1st respondent passed the assessment order dated 30.04.2024 demanding tax to the tune of Rs.21,38,348/-. Due to health issues, the petitioner could not file Appeal before the 2nd respondent within time. However, he filed an appeal on 28.10.2024 with a delay of 61 days by paying pre-deposit of 10%. Thereafter, the 2nd respondent issued show cause notice dated 30.09.2024, for which the petitioner sent his reply on 14.12.2024. Thereafter, the 2nd respondent issued personal hearing notice on 10.02.2025 directing the petitioner to appear before the authority on 14.02.2025, for which the petitioner filed a letter seeking 15 days time to collect the required documents with regard to pending appeal. But without granting time the 2nd respondent passed the impugned order on 25.02.2025 rejecting the appeal on the ground of delay and therefore the impugned is passed in violation of principles of natural and hence prays to set aside the same.

5. The learned Special Government Pleader (Taxes) appearing for the Respondent submitted that since the appeal was filed by the petitioner with the delay of 61 days, the same came to be rejected.

6. In reply, the learned counsel for the petitioner would fairly submit that since the petitioner has already deposited 10% at the time of filing the appeal, the petitioner is now ready and willing to pay 5% of the disputed tax liability made by the 2nd respondent and prays for an appropriate direction to the 2nd respondent to condone the delay and take the appeal on file, for which the learned Special Government Pleader (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

8. In the present case as against the assessment order dated 30.04.2024, the petitioner filed the appeal before the 2nd respondent with a delay of 61 days, due to his health issues. Thereafter, the 2nd respondent issued show cause notice dated 30.09.2024 for which the petitioner sent its reply on 14.12.2024. Thereafter, the 2nd respondent issued personal hearing notice

dated 10.12.2025, for which the petitioner sought time to collect the required documents with regard to pending appeal filed before the 2nd respondent. But the 2nd respondent without affording an opportunity of hearing passed the impugned order dated 25.02.2025, rejecting the appeal filed by the petitioner on the ground of delay. Therefore the impugned order was passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is in violation of principles of natural justice. In such view of the matter, this Court is inclined to set aside the impugned order dated 25.02.2025 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 25.02.2025 is set aside and the matter is remanded to the 2nd Respondent on condition that as volunteered by the Petitioner, they shall pay 5% of disputed tax to the 2nd Respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) After the payment of the aforesaid amount, the 2nd respondent shall condone the delay and take the appeal on file and dispose of the same as expeditiously as possible.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, if any made on the bank account of the Petitioner, cannot survive any longer and hence, it is lifted. As a sequel, the 3rd respondent directed to to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 5% as stated above.

9. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

26.03.2025

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

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<u>Krishnan Ramasamy,J.,</u>

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