IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 11577 of 2025
AND
WMP NO. 13076 OF 2025,WMP NO. 13077 OF 2025

M/s.Thanigai Agencies,
Represented by its Partner Mr. P. Murali ,
No. 58/C, Poora Mosque Commercial Complex,
Gandhi Road, Tirupattur 635 601.

Petitioner(s)

Vs

1.The Deputy Commissionr(CT),
Commercial Taxes Building,
Bharathiya Salai, Fort Round,
Vellore- 632 001.

2.The Commercial Tax Officer,
Pudupet Road, Near Karur Vysya Bank, Old
SP Office, Tirupattur, Vellore 635 601.

3.The State Tax Officer,
Office of the Assistant Commissioner (ST)
Vaniyambadi, Pandit Jawaharlal,
Nehru Road, Court Complex,
Vaniyambadi 635 751.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in FORM GST APL-02 in Ref No. ZD330225252069K dated 25.02.2025 issued by the 1st respondent and quash the same.

For Petitioner(s): Mr.G.Derrick Sam

For Respondent(s): Mr.V.Prashanth Kiran, Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records pertaining to the impugned order in FORM GST APL-02 in Ref No. ZD330225252069K dated 25.02.2025 issued by the 1st respondent and quash the same.

2.Mr.V.Prasanth Kiran, 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 3rd respondent issued show cause notice dated 31.05.2024 for the year 2019-2020 to the petitioner, raising 12 issues and directed the petitioner to submit the documents for the queries raised. The auditor of the petitioner had filed reply in detail for the defects mentioned in the show cause notice and also submitted the necessary documents. However, the 3rd respondent passed the assessment order dated 16.08.2024, wherein the respondent has dropped few of the demands raised and confirmed the major demands made in the show cause notice without properly considering the submissions made by the petitioner.

5.He would further submit that aggrieved over the assessment order dated 16.08.2024, the petitioner filed an appeal before the 1st respondent with a delay of 29 days, which is within the condonable period. However, the 1st respondent without giving any reason had passed the impugned order dated 25.02.2025, dismissing the appeal on the ground of limitation. Hence, the present writ petition.

6.Learned Government Advocate appearing for the respondents would fairly submit that the appeal has been filed with a delay of 29 days, which is within the condonable period and therefore, if the Court feels it appropriate, the delay may be condoned 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 though the appeal has been filed with the delay of 29 days, which is well within the condonable period, the 1st respondent had dismissed the appeal at the threshold without assigning any reason. Since the delay of 29 days is within the condonation period, this Court is inclined to condone the delay of 29 days in filing the appeal against the assessment order dated 16.08.2024.

Accordingly, this Court passes the following order:

(i) The delay of 29 days in filing the appeal against the assessment order dated 16.08.2024 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:

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KRISHNAN RAMASAMY J.

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