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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.11682 of 2025
and
W.M.P.Nos.13213 and 13214 of 2025

Tvl.Pasura Crop Care Private Limited,
Represented by its Director,
Mr.Prasanth Kumar Pabbathi,
Plot No.01, Ganapathi Nagar, Ariyamangalam,
Trichy, Ganapathi Nagar, Tiruchirappalli,
Tamil Nadu-620010.

... Petitioner

..Vs..

1.The Deputy Commissioner (CT)(Appeal)(GST), Salem,
Salem, Tamil Nadu.

2. The State Tax Officer (ST),
Arisipalayam Circle,
Station:Room No.418, Fourth Floor,
Integrated Commercial Taxes Building,
Pitchards Road,Salem-600 008.

... Respondents

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Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the 1st Respondent herein in GSTIN/Temp ID/UIN 33AAGCP6153N1Z3 against ARN # AD3303250073040 dated 13.03.2025 and quash the same.

For Petitioner : Mr.A.N.R.Jayaprathap

For Respondents : Mr. Su.Srinivasan
Senior Panel Counsel and
Mr.T.Nalinidhar
Junior Panel Counsel (R1)
Mr.C.Harsha Raj (R2)
Special Government Pleader (Taxes)

ORDER

This writ petition has been filed challenging the impugned order dated 13.03.2025 passed by the 1st Respondent and to quash the same.

2. Mr. Su.Srinivasan, learned Senior Panel Counsel and Mr.T.Nalinidhar, Junior Panel Counsel takes notice on behalf of the 1st respondent. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes) takes notice on behalf of the 2nd respondent. By consent of the

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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 issued show cause notice dated 30.05.2025 followed by reminder notice dated 21.06.2024 to the petitioner, for which the petitioner filed its reply on 16.07.2024. But the 2nd respondent without considering the same has passed the assessment order dated 14.08.2024, against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2019-2020. Immediately, the petitioner filed the rectification petition under Section 161 of the TNGST Act, 2017 before the 2nd respondent and the same was rejected vide order dated 22.02.2025. Thereafter, the petitioner filed an appeal before the 1st respondent on 03.03.2025 challenging the assessment and rectification order, with a delay of 108 days. The 1st Respondent vide order dated 13.03.2025 dismissed the appeal on the ground of delay. Being aggrieved over the same, the petitioner has filed this writ petition seeking for the aforesaid relief.

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4. The learned counsel for the petitioner would submit that immediately after the passing of the assessment order, the petitioner filed the rectification petition under the bonafide impression that the issue can be rectified through the rectification petition, but the same was dismissed and only thereafter the petitioner filed the appeal, which resulted in the delay of 108 days. 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 counsel appearing for the respondents would submit that nothing prevented the petitioner to file appeal immediately after the passing of the assessment order. But instead of filing appeal, the petitioner filed rectification petition. However, he would fairly submit that the delay may be condoned on 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

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time of filing appeal and now ready to deposit another 5% of disputed tax over and above the 10% before the authority concerned.

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

8. In the present case, as rightly contended by the learned counsel for the respondents that nothing prevented the petitioner from filing an appeal immediately after passing of the assessment order. But on the other hand, the learned counsel for the petitioner submitted that in case the rectification petition was considered, there is no need for the petitioner to file an appeal.

9. Considering the aforesaid facts and circumstances of the case, this Court is of the view that the reasons assigned by the petitioner for the delay in filing the appeal appears to be genuine. Hence, this Court is inclined to set aside the impugned order passed by the 1st respondent dated 13.03.2025 and condone the delay of 108 days in filing the

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Appeal before the 1st Respondent. Accordingly, this Court passes the following order:-

(i) Accordingly, the impugned order dated 13.03.2025 passed by the 1st respondent is set aside and the delay of 108 days in filing the appeal before the 1st respondent is condoned subject to payment of 5% of disputed tax demand before the 1st respondent, within a period of four weeks from the date of receipt of a copy of this order.

(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 petitions are also closed.

02.04.2025

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