IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :04.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.12166 of 2025
and
W.M.P.No.13725 of 2025

M/s.New Colombu Stores
represented by its proprietor
Mr.Thirumal Balakrishnan
300 Salem main road Kaveripattinam
Krishnagiri Tamil Nadu – 635 112. ...Petitioner

Vs

1 The State Tax Officer (FAC)
o/o the AC (ST) Krishnagiri I
Collectorate back side Krishnagiri -635 115.

2 The Deputy Commissioner of State Tax (Appeals)
Commercial Taxes Complex
Pitchards Road Asthampatti Salem -636 007.

Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the 1st Respondent in respect of the impugned Order No. ZD3312231567498 dated 21.12.2023 for the FY 2017-18 and the impugned acknowledgment issued by the 2nd Respondent in FORM GST APL-02 No. ZD331124006918K dated 04.11.2024 and quash the same.

For Petitioner	:	Mr.M.Karthikeyan
For Respondents	:	Mr.T.N.C.Kaushik Additional Government Pleader (T)

Order

Heard Mr.M.Karthikeyan, learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik learned Additional Government Pleader (T) who takes notice on behalf of the respondent. With consent, 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 passed by the 1st Respondent dated 21.12.2023 for the FY 2017-18 and the impugned acknowledgment issued by the 2nd Respondent in FORM GST APL-02 dated 04.11.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that a show cause notice was issued to the petitioner through the GST Portal and the petitioner, who was not aware of the same, failed to file reply to such show cause notice, however, the first respondent, without even affording an opportunity of hearing to the petitioner, passed the impugned order dated 21.12.2023, confirming the proposals contained in the show cause notice and uploaded the said order on the Gst On-line Portal and feeling aggrieved against the impugned order, the petitioner with the guidance of the Consultant, preferred an Appeal by making pre-deposit of 10% of the disputed tax, however, the Appeal was summarily rejected by the second respondent on the ground of delay vide order dated 04.11.2024.

3.1 The learned counsel for the petitioner would submit that the reason for the delay in filing the Appeal is due to the fact that the petitioner was not aware of the assessment order passed by the first respondent dated 21.12.2023, inasmuch as, the said order is an ex parte order, as, no personal hearing opportunity was provided to the petitioner, and the moment, the petitioner came to know of the assessment order, the petitioner filed an Appeal before the second respondent on 30.04.2024, and in doing so, there happened to be a delay of 9 days. Therefore, the learned counsel prays for appropriate orders.

4. The learned Additional Government Pleader for the respondents submitted that since the Appeal has been filed beyond the condonable period of limitation, the same came to be rightly rejected by the second respondent.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, it is seen that a show cause notice was issued to the petitioner. Unfortunately, the petitioner failed to file reply to such show cause notice. However, the first respondent, without even affording an opportunity of hearing to the petitioner, passed the impugned order dated 21.12.2023 confirming the proposals contained in the show cause notice. The said impugned order was not directly served on the petitioner, rather, it was uploaded on the Gst On-line Portal

6.1 Thus, it is clear that the petitioner was totally unaware of the assessment order passed against them, since, the same was not directly served on the petitioner but was uploaded through the GST Portal. That apart, the petitioner's GST registration was cancelled, the petitioner was not monitoring the GST portal as an on-going business. Later, when the petitioner came to know of the impugned assessment order passed by the first respondent dated 21.12.2023, preferred an Appeal against the assessment order and made a pre-deposit of 10% of the disputed tax, however, the Appeal was summarily rejected by the second respondent on the ground of delay. Hence, the present Writ Petitions are filed challenging both the impugned assessment order passed by the first respondent as well as the order of rejection of the Appeal passed by the second respondent.

6.2 Thus, this Court, considering the facts, as narrated supra, in the interest of justice, is inclined to condone the delay, inasmuch as the delay is only 9 days and set aside the impugned order passed by the second respondent dated 04.11.2024.

6.3 Accordingly, the delay in filing the appeal is condoned. Consequently, the second respondent/Appellate Authority is directed to take up the Appeal on file and dispose of the same on merits and in accordance with law.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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