IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

W.P.Nos.13245 & 13250 of 2025
and W.M.P.Nos.14817, 14818, 14821 & 14822 of 2025

Tvl.R.P.T. Tyers,
(Represented by its proprietor
Mr. Senthilkumar),
1, C.C. Road, Dhadubaukuttai,
Salem 636001.

Petitioner(s)
in both W.Ps

Vs

1.The State Tax Officer,
Assistant commissioner (ST),
Salem Bazar Circle.

2.The Deputy Commissioner ST/ First
Appellate Authority,
2nd Floor, Commercial Tax Building,
Pitchards Road, Hasthampatti, Salem.

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Respondent(s)
in both W.Ps

PRAYER in WP No. 13245 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the 1st respondent herein in FORM GST DRC-07 with Reference No. ZD330924018839Z dated 03.09.2024 along with detailed proceeding in GST 33BRMPS5433F1ZN dated 03.09.2024 for the tax period 2020-21, to and quash the same.

PRAYER in WP No. 13250 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari,_calling for the records on the files of the 1st respondent herein in FORM GST DRC-07 with Reference No ZD330924018903C dated 03.09.2024 along with detailed proceeding in GSTIN 33BRMPS5433F1ZN dated 03.09.2024 for the tax period 2021-22, and to quash the same .

In both W.Ps

For Petitioner(s): Mr.N Chandirasekar

For Respondent(s): Mr.C.Harsha Raj,
Special Government Pleader (t)

COMMON ORDER

These writ petitions have been filed by the petitioner challenging the impugned assessment orders dated 03.09.2024 passed by the 1st respondent for the Financial Years 2020-21 and 2021-22.

2.Mr.C.Harsha Raj, learned Special Government Pleader (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 appearing for the petitioner would submit that the petitioner was issued with show cause notices dated 05.05.2024, pertaining to the financial years 2020-21 and 2021-22. Since the said show cause notices were uploaded in the GST Portal and no physical initmation was made to the petitioner, the petitioner had no ocassion to open the GST Portal and they were unaware of the proceedings initiated against them. Therefore, the petitioner could not file their reply/objection to the show cause notices dated 05.05.2024 and consequently, the *ex parte* impugned assessment orders came to be passed. Even the impugned orders dated 03.09.2024 were uploaded in the "view additional notices column" in the GST portal.

5.He would further submit that the petitioner preferred an appeal before the 2nd respondent, by depositing 10% of the disputed tax demand in respect of the impugned assessment periods. However, the same was rejected on the ground of delay. Further, though the petitioner has sought for larger relief in this petition, he request this Court to condone the delay in filing the appeal, which is sufficient to meet out the case of the petitioner. Further, he would contend that in addition to 10% per-deposit, the petitioner is read and willing to deposit additional 15% of the disputed tax amount.

6.Learned Special Government Pleader appearing for the respondents would submit that if the Court feels it appropriate and it is a fit case for consideration, the delay may be condoned and appropriate orders may be passed to take the appeals on record.

7.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

8.Considering the submissions made by the learned counsel for the petitioner as well as the learned Special Government Pleader apeparing for the respondents, it is evident that the show cause noties were only uploaded in the GST portal and the physical copy of the said show cause notices were not furnished to the petitioner. Therefore, they were not aware of the issuance of show cause notices and the impugned orders and therefore, the delay has occurred in filing the appeal. Further, though the petitioner prayed for larger relief, he has restricted his relief and requested this Court to condone the delay in filing the appeal against the impugned assessment order since it will be sufficient to meet out the case of the petitioner. Thus, this Court is of the view that the reason assigned by the petitioner for the delay in filing the appeal against the assessment orders, appears to be genuine. For filing the appeal, the writ petitioner had already paid 10% of statutory pre-deposit. Since there occurred a delay, as suggested by the petitioner, this Court is inclined to direct the petitioner to pay another 15% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court passes the following order:-

(i) The delay in filing the appeals against the impugned assessment orders dated 03.09.2024 is hereby condoned.

(ii)The Appellate Authority is directed to take the appeals on record without insisting upon the limitation aspect, subject to the payment of 15% of the disputed tax demand, in each case, in addition to 10% statutory pre-deposit, i.e totally 25% of the disputed tax amount in respect of the impugned assessment.

(iii)The petitioner shall also file their reply/objection along with the required documents, before the Appellate Authority.

(iv)The Appellate Authority pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9.With the above directions, these writ petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

15-04-2025
(½)

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

To

1.The State Tax Officer,
Assistant commissioner (ST),
Salem Bazar Circle.

2.Deputy Commissioner ST/ First
Appellate Authority,
2nd Floor, Commercial Tax Building,
Pitchards Road, Hasthampatti, Salem.

KRISHNAN RAMASAMY J.

rst

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15-04-2025
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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

W.P.Nos.13245 & 13250 of 2025
and W.M.P.Nos.14817, 14818, 14821 & 14822 of 2025

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had lost his opportunity before the Assessing Officer. Taking into consideration of the said aspect, the paragraph No.8(iii) of the order dated 15.04.2025 was consciously inserted by this Court with an intention to provide opportunity to the petitioner to file a reply, along with all the relevant documents, to the show cause notice before the Appellate Authority. In such case, this Court is of the view that there is no need for any modification in the aforesaid order dated 15.04.2025.

4. Normally, the matter will be listed under the caption "for being mentioned" only when there is a typographical error apparent on the face of the order and hence, the issue raised by the petitioner cannot be considered under the caption "for being mentioned".

5. Accordingly, the order dated 15.04.2025 is hereby clarified. No further clarification is required.

18.06.2025
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