IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 12241 of 2025
AND
WMP NO. 13818 OF 2025,WMP NO. 13817 OF 2025,WMP NO. 13812 OF 2025,WMP NO. 13811 OF 2025,WP NO. 12247 OF 2025

Afzal Medicals,
Represented by its Proprietor,
Mr.Mohamed Akram Pasha,
No.14, Municipal Building Bus Stand
Mathigiri, Hosur, Krishnagiri,
Tamil Nadu- 635 110.

Petitioner(s)

Vs

1. Deputy Commissioner (ST)(GST)(Appeal),
Erode and Salem,
Integrated Commercial Taxes Building,
2nd Floor, Room No. 233, Pitchards Road,
Hastampatty, Salem- 636 007.

2.State Tax Officer,
Hosur (South) III Assessment Circle,
Integrated Commercial Tax Building,
Ground Floor, Seetharam Medu,
Old Bus Stand, Hosur- 635109.

Respondent(s)

PRAYER in W.P.No.12241 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing ROC No. 3667/2024 dated 13.02.2025 passed by the 1st respondent under Section 107 of the Central Goods and Services Tax Act,2017 read with the corresponding provision under the Tamil Nadu Goods and Services Tax Act, 2017 for the year 2018-19, and quash the same, and direct the 1st respondent to admit the appeal and hear the case on merits without reference to limitation.

PRAYER in WP No. 12247 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing ROC No 3668/2024 dated 13.02.2025 passed by the 1st respondent under Section 107 of the Central Goods and Services Tax Act, 2017 read with the corresponding provision under the Tamil Nadu Goods and Services Tax Act, 2017 for the year 2017 - 18 and quash the same, and direct the 1st respondent to admit the appeal and hear the case on merits without reference to limitation.

In both W.Ps

For Petitioner(s): Mr.Srinivasan V

For Respondent(s): Ms.Amirta Poonkodi Dinakaran,
Government Advocate (t)

COMMON ORDER

These writ petitions have been filed by the petitioner seeking to call for the records relating to the impugned orders bearing ROC No. 3667/2024 and ROC No 3668/2024 dated 13.02.2025 passed by the 1st respondent under Section 107 of the Central Goods and Services Tax Act,2017 read with the corresponding provision under the Tamil Nadu Goods and Services Tax Act, 2017 for the year 2018-19, and quash the same, and direct the 1st respondent to admit the appeal and hear the case on merits without reference to limitation.

2.Ms.Amirta Poonkodi Dinakaran, 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 the petitioner is a Proprietor, primarily operating a Pharmacy. The petitioner had duly filed its

GST returns periodically and had discharged its appropriate tax liability under the provisions of CGST Act. While so, on 13.08.2024, it appears that the assessment orders have been passed by the 2nd respondent confirming the demand proposed by them in respect of the assessment years 2017-18 and 2018-19. The petitioner was unaware of the proceedings initiated against them since all the notices and the impugned orders were uploaded in the GST Portal by the respondents-Department. The normal limitation period for filing appeal against the assessment orders dated 13.08.2024, ends on 13.11.2024 and the limitation period including the condonable period ends on 13.12.2024. Until the completion of the normal limitation period the petitioner was unaware of the issuance of the assessment orders and only he got a call from the 2nd respondent's office, the petitioner came to know about the assessment orders. Thereafter, on 13.12.2024, the petitioner filed an appeal. However, the appeal was rejected by the 1st respondent stating that different reasons were provided for the delay in the personal hearing and in the petition filed for condonation of delay. Hence, the present writ petition has been filed.

5.Learned Government Advocate appearing for the respondents by referring the order passed by the 1st respondent would submit that since the reason provided by the petitioner for the delay is not convincing, the 1st respondent had rejected the appeal and hence, there is no fault in the decision making process of the 1st respondent. Therefore, he prayed to dismiss the present petition.

6.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.

7.Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents, it is evident that since the petitioner had provided different reasons for the delay in the petition for the condonation of delay and during the personal hearing, the 1st respondent rejected the appeal stating that the petitioner has no truthful reason which prevented them from filing appeal within the stipulated time. In such circumstance, this Court does not find any fault in the decision making process of the 1st respondent. However, since the assessment orders have been passed in *ex parte* and there is a lack of opportunities being provided to the petitioner to putforth their case and the appeals have been filed within the condonable period, this Court feels that an opportunity should be provided to the petitioner atleast before the Appellate Authority. Hence, this Court is inclined to set-aside the impugned orders, by issuing the following directions:-

(i)The orders impugned herein are set aside and the delay in filing the appeal against the assessment orders dated 13.08.2024 is hereby condoned, subject to the payment of each 5% of the disputed tax demand as agreed by the petitioner in addition to 10% statutory pre-deposit, i.e totally 15% of the disputed tax amount in respect of both the assessment years 2017-18 and 2018-19, within a period of two weeks from the date of receipt of a copy of this order.

(ii)The Appellate Authority is directed to take the appeal on record without insisting upon the limitation aspect, upon production of proof for the payment as directed above.

(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.

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

07-04-2025

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

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