IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.13710 of 2025**
**and**
**W.M.P.Nos.15405 & 15407 of 2025**

Govindarajan Loganathan
Proprietor of M/s Sankavi Enterprises
16/2 VikashiniIllam Poombhuhar Nagar
Lakshmi Layout Rathinapuri Coimbatore
Tamil Nadu- 641027. ...Petitioner

Vs

1 COMMERCIAL TAX OFFICER/STATE TAX OFFICER GANDHIPURAM ASSESMENT CIRCLE COIMBATORE ZONE-3 COIMBATORE TAMILNADU.

2 Deputy Commissioner (CT)
Coimbatore. ...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 from the file of the Respondents and quash the Impugned Order under section 73 of the Tamil Nadu Goods and Service Tax Act 2017/Central Goods and Service Tax Act 2017 including the Summary of the Order in Form GST DRC-07 dated 20.08.2024 and having Reference

Number ZD3308241663376 and its annexure dated 20.08.2024 in GSTIN. 33AFIPL6641R1ZV /2019-20 passed by the First Respondent for FY 2019-20 along with the acknowledgment in Form GST APL-02 dated 23.03.2025 issued by the Second Respondent under Rule 108 of Central Goods and Services Tax Rules 2017/ Tamil Nadu Goods and Services Tax Rules 2017 for the FY 2019-20.

For Petitioner : Mr.N.V.Krishnan

For Respondents : Mr.C.Harsha Raj,
Special Government Pleader (T)

**Order**

Heard Mr.N.V.Krishnan learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special 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 under section 73 of the Tamil Nadu Goods and Service Tax Act 2017/Central Goods and Service Tax Act 2017 including the Summary of the Order in Form GST DRC-07 dated 20.08.2024 and its annexure dated 20.08.2024 passed by the first respondent along with the acknowledgment in Form GST APL-02 dated 23.03.2025 issued by the second Respondent.

**3.** The learned counsel for the petitioner would submit that a show cause notice was issued by the first respondent but, 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 20.08.2024 confirming the proposals contained in the show cause notice and uploaded the said order on the Gst On-line Portal; that feeling aggrieved against the impugned order, the petitioner filed a Rectification Application and the same came to be rejected; that thereafter, the petitioner 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 23.03.2025.

**3.1** The learned counsel for the petitioner would submit that the reason for the delay in filing is owing to the fact that the petitioner was totally not aware of the order passed by the first respondent, as the same was not communicated to the petitioner through physical mode of service, but was uploaded in the GST portal; that had the order of the first respondent been communicated to the petitioner by the respondent-GST Department by personal service or service through e-mail, the petitioner, would have certainly, filed the Appeal within the due date. Therefore, the learned counsel seeks for appropriate orders on any terms.

**4.** The learned Government Advocate (T) for the respondents would submit that since the Appeal has been filed beyond the condonable period of limitation, the same came to be rightly rejected by the second respondent at the threshold, however, he fairly submitted that, in the event, this Court is inclined to set aside the impugned order of rejection of the Appeal, the same may be done, subject to certain condition imposed on the petitioner.

**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 the petitioner was totally unaware of the assessment order passed against them by the first respondent dated 20.08.2024, since, the same was not directly served on the petitioner but was uploaded through the GST Portal. However, the moment, when the petitioner came to know of the impugned assessment order passed by the first respondent, immediately, they preferred an Appeal 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 of 29 days. Hence, the present Writ Petition is filed challenging both the assessment order passed by the first respondent as well as the order of rejection of the Appeal passed by the second respondent.

**6.1** Thus, this Court, considering the facts, as narrated supra, in the interest of justice, is inclined to condone the delay and set aside the impugned order of rejection of the Appeal passed by the second respondent dated 23.03.2025.

**6.2** Accordingly, this Court pass the following order/directon:-

i) The Delay in filing the Appeal is condoned.

ii) The impugned order of rejection of the Appeal passed by the second respondent dated 23.03.2025 is set aside, however, subject to the condition as agreed by the petitioner to deposit 5% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order.

iii) The second respondent/Appellate Authority, upon verification of the proof with regard to the payment of 5% of the disputed tax made by the petitioner, is directed to entertain the Appeal and dispose of the same in accordance with law,

**iv)** It is needless to state, the first respondent shall not precipitate the issue by initiating any recovery proceedings against the petitioner and the same shall be kept in abeyance till the Appeal is entertained by the Appellate Authority.

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

**17.04.2025**

sd

Index : yes/no
Neutral Citation : yes/no

To

1 COMMERCIAL TAX OFFICER/STATE
TAX OFFICER GANDHIPURAM ASSESMENT CIRCLE
COIMBATORE ZONE-3 COIMBATORE TAMILNADU.

2 Deputy Commissioner (CT)
Coimbatore.

**Krishnan Ramasamy,J.,**

sd

**W.P.No.13710 of 2025**

**17.04.2025**