IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.15385 of 2025
& W.M.P.Nos.17401 & 17402 of 2025

Tvl.Samwha India Refractories Pvt. Ltd.,
Rep by its Director,
8/1, 203, Subramaniya Nagar, Mettur,
Salem 636 403

... Petitioner

Vs.

1.Deputy Commissioner (CT),
Salem

2.Assistant Commissioner (ST),
Mettur Circle, Salem II, Salem

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the rejection of appeal in FORM GST APL-02 bearing Reference No.ZD331124005170B dated 04.11.2024 issued by the 1st Respondent and quash the same and thereby direct the 1st Respondent to take the appeal filed by the petitioner against order in Reference NO.ZD331223146831P dated 20.12.2023 and annexures passed by the

2nd Respondent on record and dispose the appeal on merits

For Petitioner : Ms.R.Srivisvapriya

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned rejection order dated 04.11.2024 passed by the 1st respondent.

2. Mr.C.Harsha Raj, learned Special Government Pleader, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, subsequent to the cancellation of petitioner's GST Registration, the *ex parte* impugned assessment order came to be passed by the 2nd respondent on 20.12.2023. Being unaware of the said assessment order, the petitioner has failed to file their appeal within time. Thereafter, the appeal against the aforesaid assessment order was preferred by the

petitioner with a delay of 115 days. Since the said delay is beyond the condonable period, the appeal was rejected by the respondent, vide rejection order dated 04.11.2024, on the aspect of limitation. Hence, this writ petition has been filed.

4. On the other hand, the learned Special Government Pleader appearing for the respondents would submit that the delay, in filing the appeal, has occurred only due to the fault on the part of the petitioner and requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and also perused the materials available on record.

6. In the case on hand, the *ex parte* assessment order came to be passed on 20.12.2023. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 12.07.2024, i.e., with a delay of 115 days. Since the delay was beyond he condonnable period, the said appeal was rejected by the respondent vide impugned order dated 04.11.2024.

According to the petitioner, since the assessment order was passed in *ex parte*, they remained unaware of the said order and hence, they were unable to file the appeal within time.

7. The above reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. In such view of the matter, this Court is inclined to condone the delay, in filing the appeal against the impugned assessment order, on terms.

8. Therefore, though the petitioner had already paid 10% of the disputed tax amount as pre-deposit while filing the appeal, considering the delay of 30 days, this Court directs the petitioner to pay additional 5% of the disputed tax amount to the respondents. Accordingly, this Court passes the following order:

i) The impugned order dated 04.11.2024 is set aside and the delay of 115 days in filing the appeal against the assessment order is hereby condoned, subject to the payment of additional 5% of the disputed tax amount by the petitioner to the respondent-Department.

ii) Upon payment of the said amount, the 1st respondent/Appellate Authority is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an 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.

29.04.2025

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

To

1.Deputy Commissioner (CT),
Salem

2.Assistant Commissioner (ST),
Mettur Circle, Salem II, Salem

KRISHNAN RAMASAMY.J.,

nsa

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