IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.04.2025**

CORAM :

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Writ Petition No.13823 of 2025
and W.M.P.No.15524 of 2025

M/s.Sri Rajeshwari Constructions,
Rep. by its Partner.Mr.Vinodh Kumar.G,
(GSTIN 33AALFS0168A1ZL)
2nd Floor, A5, Parsn Commercial Complex,
Old No.121, New No.600, Chennai – 600 006. ... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST Appeals, Chennai - II,
#1, 3rd Floor, PAP JM Buildings (Annex),
Greams Road, Chennai - 600 006.

2.The State Tax Officer,
Thiruvallikeni Assessment Circle,
3rd Floor, Room No.334,
The Integrated Building for Commercial Taxes &
Registration Department (South Tower),
Nandanam, Chennai - 35. … Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari, calling for the records in the file of the impugned order passed by the first respondent electronically in common portal vide Form GST APL-02 vide Ref.No.ZD3303251951597 dated 25.03.2025 and to quash the same.

For Petitioner : M/s.Akila S

For Respondents : M/s.P.Selvi,
Government Advocate (Tax)

ORDER

Challenging the rejection of the Appellate Authority order dated 25.03.2025 passed by the first respondent, the petitioner had filed the present Writ Petition.

2. The learned counsel for the petitioner submitted that the show cause notice in Form DRC-01 dated 22.05.2024 was issued to the petitioner through GST common portal. The petitioner had submitted its reply to the show cause notice on 23.05.2024 and 10.07.2024. Thereafter, the 2nd respondent passed order confirming the demands proposed in the show cause notice on 28.08.2024. Aggrieved by the said order dated 28.08.2024, the petitioner filed

an application for rectification of the order on 25.10.2024. The 2nd respondent had rejected the application for rectification on 28.12.2024. Aggrieved by the orders in Form DRC-07 dated 28.08.2024 and the order of rejection of application for rectification dated 28.12.2024, the petitioner had preferred an appeal before the 1st respondent on 28.01.2025, with a delay of 61 days. However, the first respondent has rejected the appeal without passing any speaking order and without giving the opportunity of personal hearing. Challenging the same, the petitioner had filed the present Writ Petition.

3. It is submitted by the learned counsel for the petitioner that the delay of 61 days in filing the appeal is well within the condonable period, however, the Appellate Authority has rejected the appeal for the reason that there is delay in filing the appeal. It is also submitted that if the petitioner is provided with an opportunity, they would be able to put forth its contention before the adjudicating authority.

4. The learned counsel for the petitioner further submitted that the petitioner is ready and willing to deposit additional 5% of the disputed tax amount over and above the statutory deposit of 10% of the disputed tax already paid by the petitioner at the time of filing of an appeal.

5. Ms.P.Selvi, learned Government Advocate (tax) appearing for the respondent submitted that if the petitioner undertaking to deposit additional 5% of the disputed tax over and above the statutory deposit of 10% of the disputed tax already paid by the petitioner, this Court may pass appropriate orders.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate fore the respondent and perused the materials available on record.

7. Considering the submissions made by the learned counsel on either

side, it appears that the reasons assigned by the petitioner appears to be genuine. Considering the fact that the petitioner has complied with the pre-condition of depositing 10% of the disputed tax at the time of filing of the Appeal, in the interest of natural justice, and in order to give one more opportunity to the petitioner to put forth his claim, this Court is inclined to pass the following orders:

(i) The impugned order dated 25.03.2025 is set aside, subject to the condition that the petitioner deposits additional 5% of the disputed tax over and above the statutory deposit of 10% of the disputed tax already paid by the petitioner at the time of filing the appeal, within a period of two weeks from the date of receipt of a copy of this order.

(ii) If the petitioner deposits the additional 5% of the disputed tax, within the time stipulated above, the first respondent/Appellate Authority is directed to take up the Appeal on its file and shall decide and dispose of the same on merits and in accordance with law, within a period of 30 days thereafter.

(iii) The Appellate Authority is directed to ensure the payment of 15% of the disputed tax by the petitioner for the purpose of taking the appeal on its file.

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

24.04.2025

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
Internet : Yes
To:
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#1, 3rd Floor, PAP JM Buildings (Annex),
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KRISHNAN RAMASAMY, J.

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