IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15488 of 2025
and
W.M.P.No.17497 of 2025

Seoyon E-HWA Summit Automative India Pvt. Ltd.,
Rep. by its Authorized Signatory Seshadri Ramakrishnan
A8 SIPCOT Industrail Park
Irugatukottai, Kancheepuram, T.N. - 602 117. ...Petitioner

Vs.

1. The Joint Commissioner (ST) GST Appeals,
Integrated Commercial Taxes and Registration Department Building (South Tower)
7th Floor, Govt. Farm Village, Nandanam,
Chennai – 600 035.

2. The Deputy Commissioner (S.T.) -I
Large Tax Payers Unit,
Integrated Commercial Taxes Building,
South Tower, Nandanam, Chennai – 600 035. ...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 of the impugned order of the first respondent in RC.No.229/2024/A2 dated 25.03.2025 and the consequential summary of order in Form GST Apl-04 dated 26.03.2025 and to quash the same as arbitrary and consequently, to direct the first respondent to number the Appeal.

For Petitioner : Mr.M.Hariharan

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

Order

Heard Mr.M.Hariharan learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who takes notice on behalf of the respondents. 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 passed by the first respondent dated 25.03.2025 and the consequential summary of order in Form GST Apl-04 dated 26.03.2025 and to quash the same and consequently, to direct the first respondent to number the Appeal.

3. The learned counsel for the petitioner would submit that aggrieved by the order passed by the second respondent/Assessing Officer dated 11.08.2023, the petitioner preferred an Appeal before the first respondent/Joint Commission on 11.03.2024, however, the same came to be rejected by virtue of the impugned order on the ground of delay; that aggrieved by the said rejection order of Appeal, the petitioner has filed this Writ Petition.

3.1 The learned counsel would submit that the reason for the delay in filing the Appeal is neither wilful nor wanton but due to the fact that the petitioner was not aware of the assessment order passed by the second respondent dated 11.08.2023 inasmuch as, the said order is an ex parte order, as, no personal hearing opportunity was provided to the petitioner, and the moment, the petitioner came to know of the assessment order, the petitioner preferred an Appeal, and in doing so, there happened to be a delay of 214 days. Therefore, the learned counsel prays for setting aside the impugned order on any terms.

4. The learned Special Government Pleader (T) for the respondents submitted that as the petitioner failed to file Appeal within the prescribed period of limitation, the Appeal was not entertained by the Appellate

Authority and came to be rejected at the threshold, however, in the event, this Court is inclined to condone the delay, subject to the payment of 10% of disputed tax by the petitioner, the delay made be condoned.

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's Consultant, who was responsible for filing the GST returns, paying taxes, entering appearances and doing all acts necessary in relation to the same, failed to see the show cause notice and other allied notices, (which culminated in the assessment order) that were uploaded in the GST Portal under "View Additional Notices and Orders". The petitioner also, due to family commitments, failed to notice the assessment order passed by the second respondent and the petitioner came to know of the assessment order only belatedly and immediately upon knowing of the same, the petitioner through their Consultant filed the Appeal, however, in doing so, there happened to be a delay of 214 days.

6.1 Thus, this Court, in the light of the aforesaid facts of the case and in the interest of justice, is inclined to grant one more opportunity to the petitioner to putforth their case before the Appellate Authority by condoning the delay, as the reasons assigned by the petitioner for the delay appears to be genuine. Accordingly, this Court is inclined to pass/issue the following order/direction:-

i) The impugned order passed by the first respondent dated 25.03.2025 and the consequential summary of order in Form GST Apl-04 dated 26.03.2025 are set aside, however, the same is subject to the condition that the petitioner deposits 10% of the disputed tax apart from the mandatory pre-deposit of 10% of the disputed tax made by the petitioner at the time of filing Appeal within a period of two weeks from the date of receipt of a copy of this order.

ii) As and when such payment of 10% is made, the first respondent/Appellate Authority, upon verification of the proof produced by the petitioner, is directed to entertain the Appeal and dispose of the same in accordance with law within a period of four weeks therefrom.

and

iii) It is needless to state, the second respondent/Assessing Officer shall not precipitate the issue by initiating any recovery proceedings against the petitioner and the same shall be kept in abeyance till the issue is seized of by the Appellate Authority.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

30.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

1. The Joint Commissioner (ST) GST Appeals,
   Integrated Commercial Taxes and Registration Department Building (South Tower)
   7th Floor, Govt. Farm Village, Nandanam,
   Chennai – 600 035.

2. The Deputy Commissioner (S.T.) -I
   Large Tax Payers Unit,
   Integrated Commercial Taxes Building,
   South Tower, Nandanam, Chennai – 600 035

Krishnan Ramasamy,J.,

sd

W.P.No.15488 of 2025

30.04.2025