IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.13861 of 2025
and
W.M.P.Nos.15579 and 15580 of 2025

Tvl.J K Transport & Logistics Private Limited,
Rep by its Managing Director- Jitendra K Mishra
No.3/201, Earikarai Sennerkuppam Parivakkam Road,
Vetrilathottam,
Chennai- 600 056.
... Petitioner

..Vs..

1.The State Tax Officer,
Office of the Commercial Tax Officer
Poonamallee Assessment Circle,
4/109, Third Floor, Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai-600123.

2. The Deputy Commissioner (CT)
The Office of the Deputy Commissioner (ST)
GST Appeals, Chennai II
... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the impugned order of the 1st respondent order in GSTIN:33AADCJ3020H2Z4/2018-2019 dated 18.04.2024 and summary of order under Section 73 in GST DRC-07 vide ref.no.ZD330424143417L for the tax period 2018-19 and along with the consequential proceedings of rejection of rectification order ref no.ZD330924095297W dated 13.09.2024 and acknowledgment of submission of appeal in FORM GST APL-02 passed by the 2nd respondent vide ref no:ZD3301251110935 dated 13.01.2025 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondents : Ms.P.Selvi
Government Advocate (Taxes)

ORDER

This writ petition has been filed challenging the impugned order of the 1st respondent dated 18.04.2025 and to quash the same.

2. Ms. P.Selvi, learned Government Advocate (Taxes) 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 submitted that the 1st respondent issued show cause notice dated 11.12.2023 followed by reminder notice dated 06.02.2024 to the petitioner, for which the petitioner filed its reply on 12.02.2024 and 23.02.2024. But the 1st respondent without considering the same has passed the impugned assessment order dated 18.04.2024, against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2018-2019. Immediately, the petitioner filed the rectification petition under Section 161 of the TNGST Act, 2017 before the 1st respondent and the same was rejected vide order dated 13.09.2024. Thereafter, the petitioner filed an appeal before the 2nd respondent on 08.11.2024 challenging the assessment order, with a delay of 100 days. The 2nd Respondent vide order dated 13.01.2025 dismissed the appeal on the ground of delay. Being aggrieved over the same, the petitioner has filed this writ petition seeking for the aforesaid relief.

4. The learned counsel for the petitioner would submit that immediately after the passing of the assessment order, the petitioner filed

the rectification petition under the bonafide impression that the issue can be rectified through the rectification petition, but the same was dismissed and only thereafter the petitioner filed the appeal, which resulted in the delay of 100 days.

5. At this stage of hearing of this writ petition, the learned counsel for the petitioner would submit that though a challenge has been made with regard to impugned assessment order, it would suffice if this Court condones the delay and direct the 2nd respondent to dispose of the appeal within the stipulated period.

5. The learned counsel appearing for the respondents would submit that nothing prevented the petitioner to file appeal immediately after the passing of the assessment order. But instead of filing appeal, the petitioner filed rectification petition. However, he would fairly submit that the delay may be condoned on terms.

6. In reply, the learned counsel for the petitioner would submit that the petitioner has already deposited 10% of the disputed tax at the

time of filing appeal and now ready to deposit another 5% of disputed tax over and above the 10% before the authority concerned.

7. Heard both sides and also perused the materials available on record.

8. In the present case, as rightly contended by the learned counsel for the respondents that nothing prevented the petitioner from filing an appeal immediately after passing of the assessment order. But on the other hand, the learned counsel for the petitioner submitted that in case the rectification petition was considered, there is no need for the petitioner to file an appeal.

9. Considering the aforesaid facts and circumstances of the case, this Court is of the view that the reasons assigned by the petitioner for

the delay in filing the appeal appears to be genuine. Hence, this Court is inclined to set aside the order passed by the 2nd respondent dated 13.01.2025 and condone the delay of 100 days in filing the Appeal before the 2nd Respondent. Accordingly, this Court passes the following order:-

(i) Accordingly, the order dated 13.01.2025 passed by the 2nd respondent is set aside and the delay of 100 days in filing the appeal before the 2nd respondent is condoned subject to payment of 5% of disputed tax demand as agreed by the petitioner, before the 2nd respondent, within a period of three weeks from the date of receipt of a copy of this order.

(ii) On such payment being made, the 2nd respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing 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.

21.04.2025

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

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<u>KRISHNAN RAMASAMY.J.,</u>
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