IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 14514 of 2025
AND
WMP NO. 16399 OF 2025,WMP NO. 16396 OF 2025

Tvl.K.Gauthaman,
Rep. by its Proprietor K.Gauthaman,
273, Salem Main Road, Bommidi,
Dharmapuri-635 301.

Petitioner(s)

Vs

The Appellate Deputy Commissioner (ST),
Combined Commercial Tax Building,
Pitchards Road, Hasthampatti,
Salem-636 007.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the Rejection order ref. No. AD330922000734E, dated 24-02-2025 passed by the Deputy Commissioner (CT), to quash the same.

For Petitioner(s): Mr.P.Thangaraj

For Respondent(s): Mr.C.Harsha Raj,
Special Government Pleader (t)

ORDER

This writ petition has been filed by the petitioner seeking to call for the Rejection order ref. No. AD330922000734E, dated 24-02-2025 passed by the Deputy Commissioner (CT), to quash the same.

2.Mr.C.Harsha Raj, learned Special Government Pleader (Taxes) takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that the petitioner has filed an appeal challenging the assessment order dated 07.04.2022, determining total liability of Rs.63,84,668/-, before the Appellate Authority with the delay of 56 days. However, the appeal filed by the petitioner got rejected without any reasoned or speaking order. Moreover, the respondent recovered a sum of Rs.9,54,717/- from the petitioner's Electronic Cash Ledger.

5.He would further submit that the reason for non-filing of appeal in time is that the petitioner did not receive the physical copy of the assessment order dated 07.04.2022. Since the order was uploaded in the GST portal, the petitioner was not aware of the assessment order being passed and therefore, the delay has been occurred. Hence, he prayed to condone the delay of 56 days in filing the appeal on any terms including condition of additional pre-deposit and provide an opportunity to substantiate their case before the Appellate Authority.

6.Mr.C.Harsha Raj, learned Special Government Pleader appearing for the respondent would submit that if the Court satisfied with the reason assigned by the petitioner for the delay, the same may be condoned and the petitioner may be directed to pursue the appeal in accordance with law.

7.Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

8.Upon hearing, it is seen that according to the petitioner, the petitioner was not aware of the show cause notice issued through the GST Portal and the physical copy of the show cause notice and the assessment order were not furnished to them. Therefore, they were not aware of the issuance of show cause notice and the impugned order and therefore, the delay of nearly 56 days has occurred. Thus, this Court is of the view that the reason assigned by the petitioner for the delay in filing the appeal against the assessment order, appears to be genuine. Therefore, this Court is inclined to direct the petitioner to pay 5% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court passes the following order:-

(i) The delay of 56 in filing the appeal against the impugned assessment order dated 07.04.2022 is hereby condoned.

(ii)The Appellate Authority is directed to take the appeal on record without insisting upon the limitation aspect, subject to the payment of 5% of the disputed tax demand in addition to already deposited by the petitioner in respect of the impugned assessment period.

(iii) According to the petitioner, the respondent had already recovered a sum of Rs.9,54,717/- subsequent to the assessment order being passed. However, learned Special Government Pleader is not sure about the same. In case the respondent had already recovered the aforesaid amount after passing the assessment order, the said amount shall be adjusted against the deposit of 5% now ordered by this Court, if not, the petitioner shall make the 5% deposit as ordered by this Court.

(iv)The petitioner shall also file their reply/objection along with the required documents, before the Appellate Authority.

(v)The Appellate Authority pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(vi) Upon production of proof with regard to the payment of 5% of the disputed tax, in addition to the deposits already made by the petitioner the respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

9.With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

23-04-2025

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

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To

The Appellate Deputy Commissioner (ST),
Combined Commercial Tax Building,
Pitchards Road, Hasthampatti,
Salem-636 007.

KRISHNAN RAMASAMY J.

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