IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.14278 of 2025
& W.M.P.Nos.16065 & 16068 of 2025

Tvl.S V & Co.
Rep by its Partner, Vadivel S.,
No.D1, Karuppannasamy Koil Street,
Kolathukadu SKC Road, Erode,
Tamil Nadu 638 009

... Petitioner

Vs.

1.The Deputy State Tax Officer-1,
Office of the Deputy Commercial Tax Officer,
Brough Road Circle, Erode.

2.The Deputy Commissioner (CT),
The Office of the Deputy Commissioner,
GST Appeals, Erode.

... 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 original impugned order of the 1st respondent in GSTIN: 33AAWFS3816L1ZM/2019-20 dated 14.08.2024 and summary of order under Section 73 in GST DRC-07 vide Ref.No.ZD330824119889U for the tax period 2019-20 and along with the consequential proceedings of rejection of rectification order Ref.No.ZD33112425386600 dated 26.11.2024 and acknowledgement for submission of appeal in Form GST APL-02 passed by the 2nd respondent vide Ref.No.ZD330225192 386B dated 19.02.2025 and quash the same.

For Petitioner	:	Mr.R.Hemalatha
For Respondent	:	Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned assessment order dated 14.08.2024 and the consequential rejection of rectification dated 26.11.2024 passed by the respondents.

2. Ms.K.Vasanthamala, learned Government Advocate, 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, initially, the *ex parte* impugned assessment order came to be passed by the 1st respondent on 14.08.2024. Subsequently, the rectification application was filed by the petitioner on 07.11.2024, however, the same was rejected by the respondent on 26.11.2024. Thereafter, an appeal against the aforesaid assessment order was preferred by the petitioner on 07.02.2025, i.e., with a delay of 150 days. Since the said delay is beyond the condonable period, the said appeal was rejected by the respondent, vide rejection order dated 19.02.2025, on the aspect of limitation. Hence, this writ petition has been filed.

4. Further, he would submit that though he had sought for larger relief in this petition, he had restricted his relief to the extent to request this Court to condone the delay in filing the appeal, since it will be sufficient to meet out the case of the petitioner.

5. On the other hand, the learned Government Advocate appearing for the respondent 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.

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

7. In the case on hand, the assessment order came to be passed on 14.08.2024. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 07.02.2025. Since the delay was beyond he condonnable period, the said appeal was rejected by the respondent vide impugned order dated 19.02.2025. According to the petitioner, since the assessment order was passed in *ex parte* and due to the pendency of rectification application, they were unable to file the appeal within time.

8. Today, the learned counsel for the petitioner has restricted his relief and requested this Court to condone the delay of 150 days in filing the appeal since it will be sufficient to meet out the case of the petitioner. 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 an

appeal against the impugned assessment order, on terms.

9. Therefore, though the petitioner had already paid 10% of the disputed tax amount as pre-deposit while filing the appeal, considering the delay of 150 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 rejection order dated 19.02.2025 is set aside and the delay of 150 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 concern 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.

22.04.2025

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

To

1.The Deputy State Tax Officer-1,
Office of the Deputy Commercial Tax Officer,
Brough Road Circle, Erode.

2.The Deputy Commissioner (CT),
The Office of the Deputy Commissioner,
GST Appeals, Erode.

KRISHNAN RAMASAMY.J.,

nsa

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