IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.14259 of 2025
and
W.M.P.No.16032 of 2025

Tvl.Cotton Buds Inc
(represented by its Partner T.K.Nagamani)
No.1439/15-A, Palanisamy Nagar,
P.N.Road, Tiruppur,
Tamil Nadu- 641 602.

... Petitioner

Vs.

1. The Assistant Commissioner (ST)(FAC)
Kongu Nagar Circle,
Tiruppur.

2. The Deputy Commissioner (ST)(GST Appeal),
Erode.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the files of the 2nd Respondent herein FORM GST APL-02 dated 04.03.2025, quash the same while directing the 2nd Respondent herein to re-dispose the appeal filed by the petitioners dated 19.02.2025.

For Petitioner : Mr.Prasad N

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

ORDER

This writ petition has been filed challenging the impugned order dated 04.03.2025 passed by the 2nd respondent and to quash the same and further direct the 2nd Respondent herein to re-dispose the appeal filed by the petitioners dated 19.02.2025.

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 07.05.2024 to the petitioner by uploading the same in the GST portal without serving the physical copy of the same to the petitioner. Therefore, the petitioner was not aware of the same and hence failed to file its reply. Subsequently, the 1st respondent passed the assessment order dated 19.08.2024, against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2019-2020 and the same was also uploaded in the GST portal without serving physical copy of the same to the petitioner. Therefore, the petitioner was not aware of the same. The petitioner's accountant noticed the assessment order uploaded in the GST portal only during February 2025 and immediately, the petitioner took steps for filing the appeal with delay of 60 days. However, the same was rejected by the 2nd Respondent vide order dated 04.03.2025, on the ground of delay. Being aggrieved over the same, the petitioner filed this writ petition.

4. The learned counsel for the petitioner would submit that since the assessment order was uploaded in the GST portal, without serving physical copy of the same to the petitioner, the petitioner was not aware of the same and hence could not be file appeal within time. Therefore, he requested this Court to condone the delay and direct the 2nd respondent to dispose of the appeal within the stipulated period.

5. The learned Government Advocate (Taxes) appearing for the respondents would submit that since the 2nd respondent has no power to condone the delay beyond the period of limitation, the appeal filed by the petitioner came to be rejected. Further, he would submit this Court may condone the delay subject to 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, it was stated by the petitioner that since the assessment order was uploaded in the GST portal, without serving physical copy of same to the petitioner and as the petitioner's accountant noticed the impugned order uploaded in the GST portal only during February 2025, the petitioner could not file appeal within time and that apart now the petitioner is ready to deposit 5% of disputed tax over and above 10% before the authority concerned.

9. Considering the aforesaid facts and in view of the settled proposition of law that when substantial justice is pitted against technical consideration, credence should be given to the substantial justice, this Court is inclined to set aside the order passed by the 2nd respondent dated 04.03.2025 and condone the delay of 60 days in filing the Appeal before the 2nd Respondent. Accordingly, this Court passes the following order:-

(i) Accordingly, the order impugned herein is set aside and the delay of 60 days in filing the appeal before the 2nd respondent is condoned subject to payment of 5% of disputed tax demand before the 2nd respondent.

(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 petition is also closed.

23.04.2025
(½)

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

To

1. The Assistant Commissioner (ST)(FAC)
   Kongu Nagar Circle,
   Tiruppur.

2. The Deputy Commissioner (ST)(GST Appeal),
   Erode.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.14259 of 2025

23.04.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.14259 of 2025
and
W.M.P.No.16032 of 2025

Tvl.Cotton Buds Inc
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For Petitioner : Mr.K.A.Parthasarathy

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

ORDER

This matter has been listed under the caption 'For Being Mentioned'.

2. In the order dated 23.04.2025 passed in the aforesaid Writ Petition, inadvertently, in the appearance portion of the order, the name of the petitioner counsel was wrongly typed as '***Mr.Prasad N***' instead of '***Mr.K.A.Parthasarathy***'.

3. Registry is directed to correct the same and issue fresh order copy to the parties concerned.

11.06.2025

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

To

1. The Assistant Commissioner (ST)(FAC)
   Kongu Nagar Circle,
   Tiruppur.

2. The Deputy Commissioner (ST)(GST Appeal),
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KRISHNAN RAMASAMY.J.,
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W.P.No.14259 of 2025

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