IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :24.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**
W.P.No.14548 of 2025
and
W.M.P.No16430 & 16431 of 2025

Tvl.Pupa Ceramic
No.24 Mariyamman Kovil Street
Pallapatti Salem Tamil Nadu – 636009.
Represented by its Managing Partner
Mr. S. Pushparajan

...Petitioner

Vs

1 DEPUTY COMMISSIONER (CT)
INTEGRATED (CT) BUILDING SURVEY NO.17/2
WARD J BLOCK 3 PITCHARDS ROAD SALEM-7.

2 State Tax Officer
RS II/Adjudication Intelligence 3rd Floor
Commercial Taxes Office Building Pitchards
Road Hasthampatty, Salem -7

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 1st Respondent vide Order dated 29.03.2025 (vide Reference No. ZD330325255221V) and quash the same and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of this case.

For Petitioner : Mr.KMC.Arunmokan
For Respondents : M/s.P.Selvi
Government Advocate (T)

Order

Heard Mr.KMC.Arunmokan learned counsel appearing for the petitioner and M/s.P.Selvi learned Government Advocate (T) who takes notice on behalf of the respondent. 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 29.03.2025, whereby, the petitioner's Appeal came to be dismissed.

3. The learned counsel appearing for the petitioner would submit that the second respondent issued a show cause notice dated 24.07.2024, since the petitioner's Chartered Accountant had passed away, the petitioner was unable to file their response/reply, however, the second respondent, without even providing an opportunity of hearing, passed the assessment order dated 14.10.2024; that subsequently, the petitioner appointed a new Auditor, who found that the order dated 14.10.2024 had errors apparent on the face of records, hence, the petitioner filed a Rectification Petition, but the same came to be dismissed vide order dated 05.02.2025; that thereafter, the petitioner filed an Appeal on 26.03.2025, in doing so, there happened to be a delay of 43 days. Therefore, the learned counsel submits that the delay in filing the Appeal is neither wilful nor wanton, but, purely due to the aforesaid reasons and hence, he prays for setting aside the impugned order on any terms.

4. The learned Government Advocate (T) for the respondents would submit that since the Appeal has been filed beyond the condonable period of limitation, the same came to be rightly rejected by the first respondent at the threshold, however, she fairly submitted that, in the event, this Court is inclined to set aside the impugned order, the same may be done, subject to certain condition imposed on the petitioner.

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 was totally unaware of the assessment order passed against them by the second respondent/Assessing Officer, since, the same was not directly served on the petitioner but was uploaded through the GST Portal. Further, the petitioner's Chartered Accountant, who used to file GST returns on behalf of the petitioner had passed away at that relevant point of time. However, the moment, when the petitioner came to know of the impugned assessment order passed by the second respondent/Assessing Officer, immediately, they preferred an Appeal and made a pre-deposit of 10% of the disputed tax. In fact, the petitioner, before preferring such Appeal also filed a Rectification Petition, however, the Rectification Petition came to be dismissed. Thus, in the interregnum period, there happened to be a delay of 43 days in filing the Appeal.

6.1 Thus, this Court, considering the facts, as narrated supra, in the interest of justice, is inclined to condone the delay and set aside the impugned order so as to enable the petitioner to putforth their case before the Appellate Authority.

6.2 Accordingly, this Court is inclined to pass/issue the following order/direction:-

i) The delay is condoned. Consequently, the impugned order passed by the first respondent/Appellate Authority dated 29.03.2025 is set aside, subject to the condition as agreed by the petitioner of depositing 5% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order.

ii) Thereafter, the first respondent/Appellate Authority, upon verification of the proof with regard to the payment of 5% of the disputed tax made by the petitioner, is directed to entertain the Appeal and dispose of the same in accordance with law.

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

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

24.04.2025

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Krishnan Ramasamy,J.,

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