IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

W.P.No.14417 of 2025
and W.M.P.Nos.16276 & 16277 of 2025

Sahara Super Market,
Rep by its Partner,
3B, Katcheri Road,
Kallakurichi – 606202.

Petitioner(s)

Vs

1.The Appellate Deputy Commissioner,
Kallakurichi.

2.The State Tax Officer,
Kallakurichi, No.33/1, Nepal Street,
Kallakuruchi.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the 1st respondent in Reference No. ZD330225251237O in GSTIN 33ADUFS7468P1ZU dated 25.02.2025 and to quash the same as illegal, arbitrary, against the provisions of law and against the principles of natural justice.

For Petitioner(s): Mr.A.Chandrasekaran

For Respondent(s): Ms.Amirta Poonkodi Dinakaran,
Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned order dated 25.02.2025 passed by the 1st respondent, rejecting the appeal filed by the petitioner against the assessment order dated 22.08.2024.

2.Ms.Amirta Poonkodi Dinakara, learned Government Advocate (Taxes) takes notice on behalf of the respondents.

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

4.Learned counsel appearing for the petitioner would submit that the petitioner was issued with show cause notice dated 20.05.2024, pertaining to the financial year 2019-2020. Since the said show cause notice was uploaded in the GST Portal and no physical initmation was made to the petitioner, the petitioner had no ocassion to open the GST Portal and they were unaware of the proceedings initiated against them. Therefore, the petitioner could not file their reply/objection to the show cause notice dated 20.05.2024 and consequently, an *ex parte* assessment order dated 22.08.2024 came to be passed, which was also uploaded in the GST portal.

5.He would further submit that the petitioner preferred an appeal before the 1st respondent, by depositing 10% of the disputed tax demand in respect of the assessment period. However, the same was rejected on the ground of delay even the delay is within the condonable period. Therefore, the learned counsel for the petitioner, prayed to condone the delay on any terms including any condition of additional pre-deposit and provide an opportunity to the petitioner to putforth their case by way of appeal.

6.Learned Government Advocate appearing for the respondents would submit that if the Court feels it appropriate and it is a fit case for consideration, the delay may be condoned and appropriate orders may be passed to take the appeals on record.

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

8.Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate apeparing for the respondents, it is evident that the show cause notice was only uploaded in the GST portal and the physical copy of the said show cause notice was not furnished to the petitioner. Therefore, they were not aware of the issuance of show cause notice and the impugned order and therefore, the delay has occurred in filing the appeal, which is within the condonable period. 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. For filing the appeal, the writ petitioner had already paid 10% of statutory pre-deposit. Since there occurred a delay, this Court is inclined to direct the petitioner to pay another 5% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court passes the following orders:-

(i) The delay of 30 days in filing the appeal against the assessment order dated 22.08.2024 is hereby condoned.

(ii)The Appellate Authority is directed to take the appeals on record without insisting upon the limitation aspect, subject to the payment of 5% of the disputed tax demand, in addition to 10% statutory pre-deposit, i.e totally 15% of the disputed tax amount in respect of the impugned assessment period.

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

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

9.With the above directions, this writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

23-04-2025
(½)

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

rst

To

1.The Appellate Deputy Commissioner,
Kallakurichi.

2.The State Tax Officer,
Kallakurichi, No.33/1, Nepal Street,
Kallakuruchi.

KRISHNAN RAMASAMY J.

rst

W.P.No.14417 of 2025
and W.M.P.Nos.16276 & 16277 of 2025

23-04-2025

(½)