IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.14588 of 2025
& W.M.P.Nos.16470 & 16472 of 2025

Sivabala Enterprises,
Rep by its Proprietor, Murugan Ramaswamy,
Old No.599B, New No.822, Poonamallee High Road,
Arumbakkam, Chennai 600 106

... Petitioner

Vs.

1.The Deputy Commissioner (ST)(FAC),
O/o.Deputy Commissioner (ST),
GST Appeal, Chennai I, Room No.210,
2nd Floor, Main Building,
No.1, Greams Road, Chennai 600 006

2.The Assistant Commissioner (ST),
Arumbakkam Assessment Circle,
No.F-50, 2nd Floor, First Avenue,
Anna Nagar, Chennai

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to calling for the 2nd respondent demand order made in Reference No. ZD330724202625M dated 16.07.2024 and the order dated 05.03.2025 of the 1st respondent made in ARN/AD3312240497370/2021-22/A1 and quash the same and consequently direct the respondents to given an opportunity of personal hearing

For Petitioner	:	Mr.P.Suresh Babu
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned assessment order dated 16.07.2024 and the consequential rejection order dated 05.03.2025 passed by the respondents.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, 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 2nd respondent on 16.07.2024. Being unaware of the said

assessment order, the petitioner has failed to file their appeal within time. Thereafter, an appeal against the aforesaid assessment order was preferred by the petitioner with a delay of 68 days. Since the said delay is beyond the condonable period, the appeal was rejected by the respondent, vide rejection order dated 05.03.2025, on the aspect of limitation. Hence, this writ petition has been filed.

4. On the other hand, the learned Additional Government Pleader 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.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and also perused the materials available on record.

6. In the case on hand, the *ex parte* assessment order came to be passed on 16.07.2024. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 21.12.2024, i.e., with a delay of 68 days.

Since the delay was beyond he condonnable period, the said appeal was rejected by the respondent vide impugned order dated 05.03.2025. According to the petitioner, since the assessment order was passed in *ex parte*, they remained unaware of the said order and hence, they were unable to file the appeal within time.

7. 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.

8. Therefore, though the petitioner had already paid 10% of the disputed tax amount as pre-deposit while filing the appeal, considering the delay of 68 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 05.03.2025 is set aside and the delay of 68 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 1st respondent/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.

24.04.2025

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

To

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